STATE OF MICHIGAN

COURT OF CLAIMS

STEVEN L. DORNBOS and SLD REALTY, INC.,

Plaintiffs,

v

Case No. 25-000011-MM

MICHIGAN LIQUOR CONTROL COMMISSION and STATE OF MICHIGAN,

Hon. James Robert Redford

Defendants.
_____/

OPINION AND ORDER GRANTING DEFENDANTS' 3/31/25 MOTION FOR SUMMARY DISPOSITION

Defendants, the Michigan Liquor Control Commission (MLCC) and the State of Michigan seek summary disposition under MCR 2.116(C)(4), (7), and (8) of the due-process and equal-protection challenges raised by plaintiffs, Steven L. Dornbos and SLD Realty, Inc. The Court GRANTS defendants' motion and DISMISSES Count I and II under MCR 2.116(C)(8), and Counts III and IV under MCR 2.116(C)(7).

I. BACKGROUND

Steven L. Dornbos is a real-estate agent and the sole owner/officer of SLD Realty, Inc., (collectively "plaintiffs"). Plaintiffs specialize in brokering the purchase and transfer of liquor licenses. Defendant, the MLCC, has "the sole right, power, and duty to control the alcoholic

beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation and sale thereof." MCL 436.1201(2).

In 2018, Excell Investments, LLC, which operated as the nightclub Paradise Ultra Lounge and held a Class C Resort liquor license (the subject license), hired plaintiffs to assist with the transfer of its license. Excell's building was in disrepair with many code violations, which could have resulted in the MLCC denying its request to transfer the subject license. Plaintiffs loaned Excell capital to make necessary repairs in exchange for a security interest in the subject license. Plaintiffs recorded that security interest with the Secretary of State on May 19, 2018, and an amendment on January 19, 2023.

In January 2023, the MLCC investigated allegations against Excell and suspended the subject license. Excell's principal, Excellence Ukomadu, waived the right to a hearing and entered a plea of acknowledgment to the charges raised against him by the MLCC. In the penalty phase, the MLCC ordered, in part, that the subject license would remain suspended until Excell transferred the license "by May 9, 2024, in an arm's-length transaction to an unrelated third-party approved by the [MLCC], excluding Excellence Ukomadu and Steven Dornbos." The MLCC issued its final order following an internal appeal on May 11, 2023. Plaintiffs assert they had no notice of these proceedings.

In the meantime, on April 18, 2023, plaintiffs filed suit in the circuit court against Excell. On February 23, 2024, plaintiffs and Excell settled the suit. As a condition of settlement, Excell was required to transfer the subject license to Dornbos or his assignee. Dornbos agreed to hold the subject license in escrow and not for active operation.

Plaintiffs filed an application with the MLCC to effectuate the agreed-upon transfer. Following a brief hearing, the MLCC entered an order on April 4, 2024, denying plaintiffs' application due to the provision in the April 20 and May 11, 2023 orders prohibiting the transfer of the subject license to Dornbos.

II. DUE PROCESS

In the complaint filed in this action, plaintiffs raise federal and state due-process challenges. Plaintiffs contend that they had a protected property interest—a security interest—in the subject liquor license, and that the MLCC deprived plaintiffs of that interest in the 2023 proceedings against Excell without notice of that proceeding. Accordingly, plaintiffs argue, the MLCC could not deny their 2024 transfer application based on the April 20 and May 11, 2023 orders.

Defendants seek summary disposition of plaintiffs' due-process claims on several grounds. The Court concludes that plaintiffs failed to properly appeal the April 4, 2024 opinion of the MLCC to the circuit court as required by MCL 600.631. The current due-process claims, therefore, are an improper collateral attack on the MLCC's opinion and must be dismissed under MCR 2.116(C)(7) ("Entry of judgment, dismissal of the action, or other relief is appropriate because of . . . prior judgment . . . or other disposition of the claim before commencement of the action.").

MCL 600.6419(1)(a) provides that the Court of Claims has jurisdiction

> [t]o hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court.

The Court of Claims Act, however, "does not deprive the circuit court of exclusive jurisdiction to issue, hear, and determine prerogative and remedial writs consistent with" Const 1963, art 6, § 13. MCL 600.6419(6). In relation to appeals from the decisions of administrative agencies, like the MLCC, an aggrieved party "has three potential avenues of relief: (1) the method of review prescribed by the statutes applicable to the particular agency; (2) the method of review prescribed by the Administrative Procedures Act (APA), MCL 24.201 *et seq.*; or (3) an appeal under MCL 600.631." *Teddy 23, LLC v Mich Film Office*, 313 Mich App 557, 567; 884 NW2d 799 (2015) (quotation marks, citation, and alterations omitted).

The statutes governing the MLCC, MCL 436.1201 *et seq.*, do not provide a method of review beyond internal agency appeals. The Court of Appeals has held that "[b]ecause an evidentiary hearing is not required by statute in connection with a [liquor license] transfer request, such a proceeding is not a contested case and therefore is not covered by the appeals procedure of the APA." *J & P Market, Inc v Liquor Control Comm*, 199 Mich App 646, 650; 502 NW2d 374 (1993). Accordingly, plaintiffs were required to appeal the April 4, 2024 MLCC opinion to the circuit court under MCL 600.631. *J & P Market, Inc*, 199 Mich App at 651, citing MCL 600.631 ("An appeal shall lie from any order, decision, or opinion of any state board, commission, or agency, authorized under the laws of this state to promulgate rules from which an appeal or other judicial review has not otherwise been provided for by law, to the circuit court of the county of which the appellant is a resident. . . .").

Plaintiffs failed to appeal the April 4, 2024 opinion of the MLCC to the circuit court. Instead, plaintiffs filed a notice of intent in this Court on November 13, 2024, and complaint on January 27, 2025. This amounts to an impermissible collateral attack. See *Director, Workers Comp Agency v MacDonald's Indus Prods, Inc*, 305 Mich App 460, 474; 853 NW2d 467 (2014)

("It is well established in Michigan that, assuming competent jurisdiction, a party cannot use a second proceeding to attack a tribunal's decision in a previous proceeding.").

Plaintiffs respond to this argument as a claim that they failed to exhaust their administrative remedies before filing suit. They contend that their claims fall within various exceptions to the rule that a plaintiff must exhaust its administrative remedies before filing suit. In doing so, plaintiffs rely on *L & L Wine & Liquor Corp v Mich Liquor Control Comm*, 274 Mich App 354; 733 NW2d 107 (2007). That case is inapposite. The plaintiffs in *L & L Wine & Liquor Corp*, 274 Mich App at 355-356, bypassed the MLCC and immediately filed suit in the circuit court. The plaintiffs in that case failed to seek any administrative remedy before filing suit and contended that its claims fell within exceptions to the exhaustion doctrine. In this case, plaintiffs actually exhausted their administrative remedies before the MLCC. The question is whether plaintiffs were excused from appealing the administrative decision to the judicial branch and could file a collateral attack against the MLCC's ruling in a new action in this Court. Plaintiffs have cited no support for that position.

Accordingly, the Court GRANTS defendants' motion for summary disposition of plaintiffs' federal and state due-process challenges.

III. EQUAL PROTECTION

Plaintiffs also raise federal and state equal-protection challenges. Under a class-of-one theory, plaintiffs contend that the MLCC has singled them out for invidious discriminatory treatment over the years.

A.

The Court of Appeals described a "class of one" equal-protection claim in *Lima Twp v Bateson*, 302 Mich App 483, 503; 838 NW2d 898 (2013):

> "The equal protection clauses of the Michigan and United States constitutions provide that no person shall be denied the equal protection of the law." [*Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318; 783 NW2d 695 (2010)]; see also US Const, Am XIV; Const 1963, art 1, § 2. "The Equal Protection Clause requires that all persons similarly situated be treated alike under the law." *Shepherd Montessori Ctr Milan*, 486 Mich at 318. To be considered similarly situated, "the challenger and his comparators must be 'prima facie identical in all relevant respects or directly comparable . . . in all material respects.' " *United States v Green*, 654 F3d 637, 651 (CA 6, 2011) quoting *United States v Moore*, 543 F3d 891 (CA 7, 2008). A "class of one" may initiate an equal protection claim by alleging that he or she "has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." *Village of Willowbrook v Olech*, 528 US 562, 564; 120 S Ct 1073; 145 L Ed 2d 1060 (2000).

A plaintiff bringing an equal-protection claim under "class of one theory" bears a "heavy burden." *Loesel v Frankenmuth*, 692 F3d 452, 462 (CA 6, 2012). "A 'class of one' plaintiff may demonstrate that government action lacks a rational basis either by negativing every conceivable basis which might support the government action, or by showing that the challenged action was motivated by animus or ill-will." *Trihealth, Inc v Hamilton Co, Ohio Bd of Comm'rs*, 430 F3d 783, 788 (CA 6, 2005).

B.

Plaintiffs contend that MLCC commissioners advised a client not to work with plaintiffs in 2016, and later stated at a hearing, "I think that a reasonable person would conclude that this broker, Steve Dornbos, was more concerned about his own paycheck than about your well-being as a client." Plaintiffs allege that a commissioner essentially accused Dornbos of fraud by asking a series of questions regarding whether the client actually authorized Dornbos to act on her behalf.

In 2019, an applicant appeared on behalf of his father, who was attempting to transfer his liquor license because he was suffering from Stage 4 cancer and needed an influx of capital. Dornbos was a personal friend of the ailing licensee, but played no role in the transaction. Even so, an MLCC commissioner advised the other sitting commissioners that he believed Dornbos was involved because "this seems to follow a pattern" similar to Dornbos's approach. The commissioners then chastised the applicant when he admitted he was motivated to transfer the license to make money and accused him of working with Dornbos. The commissioners made disparaging comments about Dornbos's professionalism and stated he often makes mistakes in his transactions.

In 2023, the MLCC issued the orders prohibiting Excell from transferring the subject liquor license to Dornbos.

In August 2024, and with the MLCC's knowledge, Dornbos paid $14,000 on behalf of a client to remove a Treasury levy and reinstate the client's liquor license. The MLCC then refused to provide documentation to renew the license and it automatically terminated, causing plaintiffs to lose $70,000 in potential profit.

In a final example, plaintiffs held a liquor license in escrow on behalf of a client, M&A, for several years. Plaintiffs sent several requests to extend the escrow and it was "common practice" to automatically grant such extensions. Without notifying plaintiffs, the MLCC denied an extension in March 2024, and terminated the M&A license. The MLCC refused to discuss the matter with plaintiffs. The MLCC thereby caused plaintiffs to lose additional profit.

Overall, plaintiffs contend that the various on-the-record statements and arbitrary actions of the MLCC "make clear that it has a policy and practice of subjecting any transaction in which

Plaintiff DORNBOS is actually or perceived to be involved to additional and unreasonable scrutiny and skepticism and that they are more likely to suffer denial for arbitrary reasons based solely upon his involvement."

C.

Because the equal-protection claims raise allegations beyond the proceeding resulting in the MLCC's April 4, 2024 ruling against plaintiffs, the Court finds that they are not a prohibited collateral attack. Accordingly, unlike the due-process claims, the MLCC is not entitled to summary disposition of the equal-protection challenges on that ground.

The MLCC contends that SLD lacks standing to file suit because the complaint lacks any allegation that the MLCC took any action to harm SLD. The Court does not read the complaint so narrowly. In the complaint, plaintiffs allege that the MLCC has invidiously discriminated against Dornbos "because of personal dislike and animus towards him personally *and SLD's business practices*." (Emphasis added.) Plaintiffs also argue:

> The on-the-record comments by MLCC Commissioners, and the Defendant MLCC's demonstrably arbitrary actions, make clear that it has a policy and practice of subjecting any transaction in which Plaintiff DORNBOS is actually or perceived to be involved to additional and unreasonable scrutiny and skepticism and that *they* are more likely to suffer denial for arbitrary reasons based solely upon his involvement. [Emphasis added.]

Within Counts I and II, plaintiffs allege that because of the MLCC's invidious discrimination against Dornbos, "[*p*]*laintiffs* have suffered, and likely will continue to suffer, malicious and arbitrary treatment by the MLCC based upon personal animus." (Emphasis added.) Although plaintiffs could have more clearly outlined how SLD's interests were impacted, the Court finds these allegations sufficient to afford SLD standing.

The MLCC contends that plaintiffs' federal equal-protection must be dismissed because of sovereign immunity. Plaintiffs respond to this argument with precedent holding that the state does not always enjoy sovereign immunity from claims that it violated the Michigan Constitution. See *Mays v Governor*, 506 Mich 157; 954 NW2d 139 (2020); *Rusha v Dep't of Corrections*, 307 Mich App 300; 859 NW2d 735 (2014). Plaintiffs have made no attempt to analogize these cases to the argument placed before the Court—whether the state and the MLCC enjoy sovereign immunity from an equal-protection claim raised under the United States Constitution. In any event, the Court need not answer that question in this matter because defendants are entitled to summary disposition under MCR 2.116(C)(8).

The MLCC contends that plaintiffs failed to adequately allege a state equal-protection claim, justifying dismissal under MCR 2.116(C)(8). Specifically, the MLCC asserts that plaintiffs "fail[] to assert that other brokers similarly situated were treated differently. The complaint does not even mention other brokers." A review of the complaint shows that plaintiffs allege they were treated poorly, were denigrated before applicants, and were insulted and maligned. Yet, plaintiffs failed to allege that they alone were subject to such treatment. The closest plaintiffs come to supporting their claim of differential treatment is the statement in ¶ 12 of the complaint that "[i]t is common practice for the MLCC to extend escrow in circumstances like this," but the MLCC terminated the M&A license without notice. Plaintiffs identified no other brokers or applicants whose escrow extension requests were granted or denied to support its position. In response to the motion for summary disposition, plaintiffs contend that this statement infers that they were treated differently from any and all other applicants. Plaintiffs further contend that they cannot provide examples of similarly situated parties who were treated differently without discovery. The central purpose of discovery "is to simplify and clarify issues" in preparation for trial. *Spine Specialists*

of Mich, PC v State Farm Mut Auto Ins Co, 317 Mich App 497, 501; 894 NW2d 749 (2016) (quotation marks and citation omitted). But future discovery cannot remedy a complaint that fails to sufficiently allege the elements of a claim in the first instance. As plaintiffs failed to identify, beyond a passing inference, that other similarly situated brokers were treated differently, the Court must GRANT defendants' motion for summary disposition of plaintiffs' equal-protection counts under MCR 2.116(C)(8).

IT IS ORDERED:

1. The Court GRANTS defendants' motion for summary disposition.

2. The Court DISMISSES Count I and II of the complaint under MCR 2.116(C)(8), and Count III and IV under MCR 2.116(C)(7), with prejudice.

3. This is a final order resolving all issues in this case.

Date: October 23, 2025

James Robert Redford
Judge, Court of Claims