

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN**

GO DOWNTOWN, LLC,
A Michigan Limited Liability Company,
Plaintiff,

v.

Case No. 11-

CITY OF YPSILANTI, a Michigan Municipal
Home-Rule City, and City Council Members:
Paul Schreiber, Lois Richardson,
Ricky Jefferson, Michael Bodary, Daniel Vogt,
Peter Murdock, and Brian Robb,
Defendants.

COMPLAINT

Plaintiff states:

Common Allegations

1. This action arises under 42 USC 1983. Jurisdiction is conferred by 28 USC 1331, 1343(3), (4).
2. Plaintiff is a Michigan Limited Liability Company and the owner of the real estate located at 208 W. Michigan Avenue, in the City of Ypsilanti, County of Washtenaw, State of Michigan.
3. Defendant is a Michigan Municipal Home-Rule with its principal offices located in the City of Ypsilanti, County of Washtenaw, State of Michigan.
4. Defendants Paul Schreiber, Lois Richardson, Ricky Jefferson, Michael Bodary, Daniel Vogt, Peter Murdock, and Brian Robb are Ypsilanti City Council Members employed by the City of Ypsilanti. The City of Ypsilanti is liable for their acts.

5. When the events alleged in this complaint occurred, City Council Defendants were acting within the scope of their employment with the City of Ypsilanti and under color of law.
6. On or about August 2, 2004, under the provisions of the Obsolete Property Rehabilitation Act, Public Act 146 of 2000, MCLA 125.2781 et seq. (OPRA) an Obsolete Property Rehabilitation Certificate was issued by the State of Michigan to Go Downtown, LLC for property located at 208 W. Michigan Ave., City of Ypsilanti, Michigan; Certificate No. 3-04-0013. (Exhibit 1).
7. The Certificate provided that, unless revoked as provided by Act 146 P.A. 2000 shall remain in force for a period of 8 years beginning 12/31/2004 and ending 12/30/2012.
8. On or about October 14, 2010, the City of Ypsilanti, by its Treasurer, sent a letter to Go Downtown, LLC informing it that its tax payment due on September 14, 2010 was not paid. The letter further stated that the City Council may revoke the tax exemption.
9. Defendants did not file a Certificate of Non-Payment of Taxes with the Washtenaw County Register of Deeds. Defendants did not serve a copy of the Certificate of Non-Payment of Taxes upon Go Downtown, LLC.
10. On or about November 17, 2010, the property taxes were paid and are current as of this date.
11. On or about December 7, 2011, a resolution to revoke the Obsolete Property Rehabilitation Exemption was presented to the City Council and the resolution failed.

12. On or about December 21, 2011, the City Council reconsidered the resolution to revoke the Obsolete Property Rehabilitation Exemption at which time the resolution passed by a vote of 4 Yes and 3 No.

13. OPRA provides that the legislative body of the qualified local governmental unit may, by resolution, revoke the obsolete property rehabilitation exemption certificate of a facility if it finds... “that the holder of the obsolete property exemption certificate has not proceeded in good faith with the operation of the rehabilitated facility in a matter consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.” MCLA 125.2792.

14. Plaintiff has, at all times, operated the rehabilitated facility located at 208 W. Michigan Avenue in a manner consistent with the purposes of OPRA. The rehabilitated facility is a commercial property leased to commercial and residential tenants.

15. OPRA does not provide that payment of the property taxes late, in this case 63 days late, constitutes “not proceeding in good faith with the operation of the rehabilitated facility in a matter consistent with the purpose of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.”

16. The purpose of Act is to restore blighted or functionally obsolete property to full commercial use not to ensure timely collection of property taxes.

Count I
Fourth and Fourteenth Amendment Violations

17. Plaintiff incorporates by reference paragraphs 1 through 16.

18. Plaintiff’s constitutionally protected rights that have been violated by Defendants’ wrongful revocation of OPRA Certificate No. 3-04-0014 include the following:

a. Rights guaranteed by the Fourteenth Amendment which require due process prior to depriving it of property; and

b. Its right to fair and equal treatment guaranteed and protected by the Equal Protection Clause of the Fourteenth Amendment

19. Defendants under color of state law, wrongfully revoked Plaintiff's OPRA Certificate causing Plaintiff economic damages in the approximate amount of between \$20,000 and \$30,000.

Plaintiff requests that this court set aside the revocation by Defendants of the OPRA Certificate or in the alternative enter judgment against Defendants in an amount consistent with the damages sustained.

Dated: April 20, 2011

/s/ *Nora Lee Wright*
Nora Lee Wright
Attorney for Debtor
221 Felch Street, Suite 4
Ann Arbor, Michigan 48103
(734)332-7863
norawrightlaw@gmail.com