STATE OF MICHIGAN
IN THE COURT OF APPEALS

EGR RESPONSIBLE DEVELOPMENT, INC., GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE, and WENDY SCOTT,

Plaintiffs-Appellees,

vs.

CITY OF EAST GRAND RAPIDS, and LORI PARMENTER, in her capacity as Clerk of City of East Grand Rapids,

Defendants,

GASLIGHT INVESTORS, L.L.C.,

Intervening Defendant-Appellant.

Court of Appeals No. _____

Kent Circuit Court No. 25-21067-CZ

CLAIM OF APPEAL

Christopher J. Zdarsky (P81809)
Patrick J. Malone (P88344)
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Attorneys for Intervening Defendant-Appellant

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CLAIM OF APPEAL

Intervening Defendant-Appellant Gaslight Investors, L.L.C. claims an appeal from the Opinion/Order Re: Plaintiffs' Motion to Dismiss Count II and Defendants' Joint Motion to Extend Deadline for Filing Disposition Motion entered on October 7, 2026, in the Kent County Circuit Court of the State of Michigan, by the Honorable George Jay Quist (attached as **Exhibit 1**), including the Opinion/Order Re: Plaintiffs' Motion for Partial Summary Disposition on Count I: Declaratory Judgment on the Protest Petition entered on August 10, 2026 (attached as **Exhibit 2**).

A copy of the Register of Actions showing the docket entries is attached as **Exhibit 3** and the Jurisdictional Checklist is attached as **Exhibit 4**.

ATTORNEY STATEMENT REGARDING TRANSCRIPTS

I, undersigned counsel for Intervening Defendant-Appellant, hereby state that the necessary transcripts from the August 7, 2026, hearing on Plaintiffs' Motion for Partial Summary Disposition on Count I and Intervening Defendant's Motion to Compel and the August 10, 2026, oral opinion were filed in the Kent County Circuit Court on September 9, 2026. A copy of the transcript from the August 7, 2026, hearing is attached as **Exhibit 5**, and a copy of the transcript from the August 10, 2026, oral opinion is attached as **Exhibit 6**.

Dated: October 26, 2026

Respectfully submitted,

HONIGMAN LLP

By: */s/ Brandon J. Wilson*
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Attorneys for Intervening Defendant-Appellant

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CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2026, a copy of Intervening Defendant-Appellant Gaslight Investors, L.L.C.'s Claim of Appeal was served electronically via the Court's electronic filing system on counsel of record for Plaintiffs-Appellees, Christopher J. Zdarsky (P81809) and Patrick J. Malone (P88344), and on counsel of record for Defendants City of East Grand Rapids and Lori Parmenter, John M. Huff (P29062), Michael J. Roth (P51795), and Hannah A. Cone (P87285).

/s/ Brandon J. Wilson
Brandon J. Wilson (P73042)

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INDEX OF EXHIBITS TO CLAIM OF APPEAL

Exhibit No.	Description
1	October 7, 2026 Opinion/Order Re: Plaintiffs' Motion to Dismiss Count II and Defendants' Joint Motion to Extend Deadline for Filing Disposition Motion
2	August 10, 2026 Opinion/Order Re: Plaintiffs' Motion for Partial Summary Disposition on Count I: Declaratory Judgment on the Protest Petition
3	Kent County Circuit Court Register of Actions for *EGR Responsible Development, Inc., et al. v. City of East Grand Rapids, et al.*, 25-21067-CZ
4	Jurisdictional Checklist
5	Transcript of August 7, 2026 Hearing on Motion for Partial Summary Disposition on Count I and Motion to Compel
6	Transcript of August 10, 2026 Oral Opinion

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EXHIBIT 1

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

EGR Responsible Development, Inc., Gaslight Village Responsible Development, Russ Afton, Anna Moore Butzner, John Chronowski, Janet Rose, and Wendy Scott,

Plaintiffs,

vs

The City of East Grand Rapids and Lori Parmenter, in her capacity as the City of East Grand Rapids City Clerk,

Defendants,

and

Gaslight Investors, LLC,

Intervening Defendant.

_____/

HON. GEORGE JAY QUIST

Case No. 25-21067-CZ

OPINION/ORDER RE: PLAINTIFFS' MOTION TO DISMISS COUNT II and DEFENDANTS' JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITION MOTION

REC'D & FILED

OCT 0 7 2026

JUDGE QUIST
17TH CIRCUIT COURT

At a session of said Court, held in the Kent County Courthouse in the City of Grand Rapids, in said county on October 7, 2026

Present: HON. GEORGE JAY QUIST
Circuit Judge

The Court has reviewed the motions and briefs submitted in the above-captioned matter. The Court finds and orders as follows:

1. There are two motions pending before the Court: (1) Plaintiffs' Motion to Dismiss Count II, and (2) Defendants' Joint Motion to Extend Deadline for Filing Disposition Motion.
2. The parties agree that in light of the Court's ruling on Count I of Plaintiffs' complaint, Count II should be dismissed and a final order closing the case should be entered.
3. Plaintiffs' request that Count II be dismissed without prejudice. Defendants and Intervening Defendant request that Count II be dismissed with prejudice.

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4. Having reviewed the briefs submitted, the Court agrees with Defendants and Intervening Defendant that dismissal with prejudice is appropriate. The Court adopts the arguments of Defendants and Intervening Defendant as the analysis of the Court. No further analysis is necessary. MCR 2.517(A)(4).
5. Therefore, Count II is **DISMISSED WITH PREJUDICE**.
6. Based on the above ruling, Defendants and Intervening Defendant's Joint Motion to Extend Deadlines for Filing Dispositive Motion is respectfully **DENIED** because it is moot.
7. The Court shall dispense with oral argument pursuant to MCR 2.119(E)(3). Therefore, the parties and counsel shall not appear for these motion hearings scheduled for October 9, 2026.

IT IS SO ORDERED.

This is a final order and closes this case.

10-7-26
DATE

GEORGE JAY QUIST, Circuit Judge (P43884)

PROOF OF SERVICE

Service of a copy of this document was made by ordinary mail and electronic mail on the parties who have appeared, or their attorneys of record, on this date.

OCT 0 7 2026
DATE

Whitney Smith, Judicial Clerk

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EXHIBIT 2

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

EGR Responsible Development, Inc., Gaslight Village Responsible Development, Russ Afton, Anna Moore Butzner, John Chronowski, Janet Rose, and Wendy Scott,

Plaintiffs,

vs

The City of East Grand Rapids and Lori Parmenter, in her capacity as the City of East Grand Rapids City Clerk,

Defendants,

and

Gaslight Investors, LLC,

Intervening Defendant.

_____/

HON. GEORGE JAY QUIST

Case No. 25-21067-CZ

OPINION/ORDER RE: PLAINTIFFS' MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION

REC'D & FILED

AUG 10 2026

JUDGE QUIST
17TH CIRCUIT COURT

At a session of said Court, held in the Kent County Courthouse in the City of Grand Rapids, in said county on August 10, 2026

Present: HON. GEORGE JAY QUIST
Circuit Judge

The Court has reviewed the briefs submitted in the above-captioned motion. Oral argument was held on Friday, August 7, 2026. The Court issued an oral opinion on August 10, 2026. For the reasons stated by the Court on the record on August 7 and August 10, 2026, the Court finds and orders as follows:

1. Plaintiffs' motion is **GRANTED**.
2. The Protest Petition contained all information required by MCL 125.3403.
3. The Protest Petition was signed by owners comprising greater than 20% of land within 100 feet of the PUD Amendment.

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4. By operation of MCL 125.3403, approval of the PUD Amendment required a supermajority vote by the City of East Grand Rapids ("the City").
5. The City did not vote by a supermajority to approve the PUD Amendment.
6. Consequently, the City's approval of the PUD Amendment is null and void.

IT IS SO ORDERED.

This is not a final order and does not close the case.

8-10-26
DATE

GEORGE JAY QUIST, Circuit Judge (P43884)

PROOF OF SERVICE

Service of a copy of this document was made by ordinary mail and electronic mail on the parties who have appeared, or their attorneys of record, on this date.

AUG 10 2026
DATE

Whitney Smith, Judicial Clerk

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EXHIBIT 3

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Confirmation of whether charges in criminal cases are misdemeanors or felonies is not available from the Kent County Circuit Court Clerk's Office. Learn more by reading Chapter 750 of the Michigan Penal Code .

Case Information

Case #: 25-21067-CZ

File Date: 11/19/2025

EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC et al vs. THE CITY OF EAST GRAND RAPIDS et al

AFTON, RUSS - PLAINTIFF

Other Parties: EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC - PLAINTIFF
Other Parties: GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT - PLAINTIFF
Other Parties: BUTZNER, ANNA MOORE - PLAINTIFF
Other Parties: CHRONOWSKI, JOHN - PLAINTIFF
Other Parties: ROSE, JANET - PLAINTIFF
Other Parties: SCOTT, WENDY - PLAINTIFF
Other Parties: THE CITY OF EAST GRAND RAPIDS - DEFENDANT
Other Parties: PARMENTER, LORI - DEFENDANT
Other Parties: GASLIGHT INVESTORS LLC - INTERVENING DEFENDANT

Docket Entries

#	Date	Description
75	10/07/2026	OPINION/ORDER RE: PLAS MOTION TO DISMISS COUNT II AND DEFS JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITION MOTION (DENIED), POS
74	10/07/2026	NOT HEARD, ORDER ENTERED The following event: MISCELLANEOUS MOTION scheduled for 10/09/2026 at 8:30 am has been resulted as follows: Result: NOT HEARD, ORDER ENTERED Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A
73	10/07/2026	NOT HEARD, ORDER ENTERED The following event: MOTION TO DISMISS scheduled for 10/09/2026 at 8:30 am has been resulted as follows: Result: NOT HEARD, ORDER ENTERED Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A
72	10/06/2026	POS OF PLAS` RESPONSE IN OPPOSITION TO DEFS` AND INTERVENING DEF`S JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITIVE MOTIONS, PLAS` REPLY BRIEF IN SUPPORT OFM OTION TO DISMISS COUNT II: MANDAMUS (IN THE ALTERNATIVE) AS MOOT, AND POS

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#	Date	Description
71	10/06/2026	PLAS` REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS COUNT II: MANDAMUS (IN THE ALTERNATIVE) AS MOOT
70	10/06/2026	PLAS` RESPONSE IN OPPOSITION TO DEFS` AND INTERVENING DEF`S JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITIVE MOTIONS CHRISTOPHER JAMES ZDARSKY (Attorney) on behalf of EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE, WENDY SCOTT (PLAINTIFF)
69	10/02/2026	INTERVENING DEF`S RESPONSE TO PLAS` MOTION TO DISMISS COUNT II: MANDAMUS (IN THE ALTERNATIVE) AS MOOT, POS BRANDON JOHN WILSON (Attorney) on behalf of GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT (PLAINTIFF)
68	09/17/2026	SCHEDULED Event: MISCELLANEOUS MOTION Date: 10/09/2026 Time: 8:30 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: NOT HEARD, ORDER ENTERED
67	09/15/2026	NOTICE OF HEARING (DEFS JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITIVE MOTION)(10/09/26 AT 8:30 AM)
66	09/15/2026	DEFS AND INTERVENING DEFS JOINT MOTION TO EXTEND DEADLINE FOR FILING DISPOSITION MOTION, CERTIFICATE OF SERVICE
65	09/15/2026	MOTION FEE PAID Receipt: 1488274 Date: 09/15/2026
64	09/14/2026	SCHEDULED Event: MOTION TO DISMISS Date: 10/09/2026 Time: 8:30 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: NOT HEARD, ORDER ENTERED
63	09/10/2026	NOTICE OF HEARING OF PLA`S MOTION TO DISMISS COUNT II: MANADAMUS AS MOOT (10/9/26 AT 8:30 AM)
62	09/10/2026	POS OF PLAS` MOTION TO DISMISS COUNT II: MANDAMUS AS MOOT, BRIEF IN SUPPORT, NOTICE OF HEARING
61	09/10/2026	PLAS MOTION TO DISMISS COUNT II MANDAMUS (IN THE ALTERNATIVE)AS MOOT, BRIEF IN SUPPORT
60	09/10/2026	MOTION FEE PAID Receipt: 1487641 Date: 09/10/2026
59	09/09/2026	TRANSCRIPT OF ORAL OPINION, HELD ON MONDAY, 08/10/2026, BEFORE THE HONORABLE GEORGE JAY QUIST (14PGS) (TRANSCRIBED BY: STACY DILWORTH)
58	09/09/2026	TRANSCRIPT OF MOTION FOR PARTIAL SUMMARY DISPOSITION AND MOTION TO COMPEL, HELD ON FRIDAY, 08/07/2026, BEFORE THE HONORABLE GEORGE JAY QUIST (45PGS) (TRANSCRIBED BY: STACY DILWORTH)
57	08/19/2026	POS OF PLAS` ANSWERS TO INTERVENING DEF`S SECOND SET OF INTERROGATORIES, PLAS` OBJECTIONS AND RESPONSES TO INTERVENING DEF`S SECOND SET OF REQUESTS FOR PRODUCTION, AND POS
56	08/10/2026	OPINION/ORDER RE: INTERVENING DEF GASLIGHT INVESTORS, LLC`S MOTION TO COMPEL DISCOVERY AND TO EXTEND THE REMAINING SCHEDULING ORDER DATES (DENIED), POS
55	08/10/2026	OPINION AND ORDER RE: PLAS MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION, (GRANTED)POS
54	08/10/2026	HELD The following event: ORAL OPINION HEARING scheduled for 08/10/2026 at 11:00 am has been resulted as follows: Result: HELD Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A HELD ON THE RECORD COURT REPORTER: FTR 12A Certificate #:

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#	Date	Description
53	08/07/2026	SCHEDULED Event: ORAL OPINION HEARING Date: 08/10/2026 Time: 11:00 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: HELD
52	08/07/2026	HELD The following event: MOTION TO COMPEL scheduled for 08/07/2026 at 8:30 am has been resulted as follows: Result: HELD Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A HELD ON THE RECORD COURT REPORTER: FTR 12A Certificate #:
51	08/07/2026	HELD The following event: MOTION FOR PARTIAL SUMMARY DISPOSITION scheduled for 08/07/2026 at 8:30 am has been resulted as follows: Result: HELD Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A HELD ON THE RECORD COURT REPORTER: FTR 12A Certificate #:
50	08/04/2026	POS OF PLAS RESPONSE IN OPPOSITION TO INTERVENING DEFS MOTION TO COMPEL DISCOVERY FROM PLAS AND TO EXTEND THE REMAINING SCHEDULING ORDER DATES AND THIS POS
49	08/04/2026	PLAS` RESPONSE IN OPPOSITION TO INTERVENING DEF`S MOTION TO COMPEL DISCOVERY FROM PLAS AND TO EXTEND THE REMAINING SCHEDULING ORDER DATES CHRISTOPHER JAMES ZDARSKY (Attorney) on behalf of EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE, WENDY SCOTT (PLAINTIFF)
48	08/03/2026	OPINION AND ORDER FROM THE STATE OF MICHIGAN COURT OF APPEALS (REMANDED)
47	08/03/2026	SCHEDULED Event: MOTION TO COMPEL Date: 08/07/2026 Time: 8:30 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: HELD
46	07/31/2026	INTERVENING DEF`S RESPONSE IN OPPOSITION TO PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION, INDEX OF EXHIBITS, AND POS BRANDON JOHN WILSON (Attorney) on behalf of GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT (PLAINTIFF)
45	07/31/2026	POS OF DEFS` BRIEF IN OPPOSITION TO PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION
44	07/31/2026	DEFS` BRIEF IN OPPOSITION TO PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION MICHAEL J ROTH (Attorney) on behalf of THE CITY OF EAST GRAND RAPIDS, LORI PARMENTER (DEFENDANT)
43	07/31/2026	NOTICE OF HEARING (INTERVENING DEF`S MOTION TO COMPEL DISCOVERY FROM PLAS AND TO EXTEND REMAINING SCHEDULING ORDER DATES) (FRIDAY, 08/07/2026, AT 8:30AM)
42	07/31/2026	INTERVENING DEF`S MOTION TO COMPEL DISCOVERY FROM PLAS AND TO EXTEND THE REMAINING SCHEDULING ORDER DATES, BRIEF IN SUPPORT, AND POS
41	07/31/2026	MOTION FEE PAID Receipt: 1481790 Date: 07/31/2026
40	07/29/2026	POS OF PLAS` WITNESS LIST, PLAS` FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFS THE CITY OF EAST GRAND RAPIDS AND LORI PARENTER, IN HER CAPACITY AS CITY CLERK, PLAS` FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEF GASLIGHT INVESTO
39	07/29/2026	PLAS` WITNESS LIST
38	07/29/2026	POS OF DEFS` WITNESS DISCLOSURE
37	07/29/2026	DEFS` WITNESS DISCLOSURE
36	07/29/2026	INTERVENING DEF`S PRELIMINARY TRIAL WITNESS DISCLOSURE AND POS

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#	Date	Description
35	07/15/2026	SCHEDULED Event: MOTION FOR PARTIAL SUMMARY DISPOSITION Date: 08/07/2026 Time: 8:30 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: HELD
34	07/14/2026	POS OF PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION, BRIEF IN SUPPORT, NOTICE OF HEARING, AND POS
33	07/14/2026	NOTICE OF HEARING (PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1) (FRIDAY, 08/07/2026, AT 8:30AM)
32	07/14/2026	BRIEF IN SUPPORT OF PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION CHRISTOPHER JAMES ZDARSKY (Attorney) on behalf of EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE, WENDY SCOTT (PLAINTIFF)
31	07/14/2026	PLAS` MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNT 1: DECLARATORY JUDGMENT ON THE PROTEST PETITION CHRISTOPHER JAMES ZDARSKY (Attorney) on behalf of EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE, WENDY SCOTT (PLAINTIFF)
30	07/14/2026	MOTION FEE PAID Receipt: 1479535 Date: 07/14/2026
29	03/11/2026	NOTICE REGARDING COURT SELECTED MEDIATOR
28	02/25/2026	ORDER FOR REFERRAL FOR MEDIATION
27	02/24/2026	SCHEDULING ORDER
26	02/24/2026	NOT HEARD, ORDER ENTERED The following event: SCHEDULING CONFERENCE scheduled for 02/27/2026 at 8:15 am has been resulted as follows: Result: NOT HEARD, ORDER ENTERED Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A
25	02/13/2026	PRETRIAL SCHEDULE
24	02/10/2026	POS OF DEF GASLIGHT INVESTORS LLC`S INITIAL DISCLOSURES
23	01/26/2026	INTERVENING DEF GASLIGHT INVESTORS, L.L.C.`S ANSWER AND AFFIRMATIVE DEFENSES TO PLA`S FIRST AMENDED COMPLAINT, POS BRANDON JOHN WILSON (Attorney) on behalf of GASLIGHT INVESTORS LLC (INTERVENING DEFENDANT)
22	01/23/2026	STIPULATION ORDER GRANTING INTERVENTION OF GASLIGHT INVESTORS, LLC AS INTERVENING DEF
21	01/21/2026	APPEARANCE OF LAURA E. BIERY, POS LAURA ELIZABETH BIERY (Attorney) on behalf of GASLIGHT INVESTORS LLC (INTERVENING DEFENDANT)
20	01/21/2026	APPEARANCE OF BRANDON J. WILSON, POS BRANDON JOHN WILSON (Attorney) on behalf of GASLIGHT INVESTORS LLC (INTERVENING DEFENDANT)
19	01/21/2026	NOTICE TO APPEAR
18	01/21/2026	SCHEDULING CONFERENCE (NOTICE & PROOF) The following event: SCHEDULING CONFERENCE scheduled for 01/23/2026 at 8:15 am has been rescheduled as follows: Event: SCHEDULING CONFERENCE Date: 02/27/2026 Time: 8:15 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: NOT HEARD, ORDER ENTERED

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#	Date	Description
17	01/21/2026	ADJOURNED DUE TO OTHER REASONS The following event: SCHEDULING CONFERENCE scheduled for 01/23/2026 at 8:15 am has been resulted as follows: Result: ADJOURNED DUE TO OTHER REASONS Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A
16	01/13/2026	POS OF DEFS` ANSWER TO FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND AFFIRMATIVE DEFENSES
15	01/13/2026	DEFS ANSWER TO FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND AFFIRMATIVE DEFENSES MICHAEL J. ROTH (Attorney) on behalf of THE CITY OF EAST GRAND RAPIDS, LORI PARMENTER (DEFENDANT)
14	01/07/2026	POS OF DEFS` INITIAL DISCLOSURES
13	12/23/2025	POS OF PLAS FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, OR IN THE ALTERNATIVE A PETITION FOR WRIT OF MANDAMUS, PLAS INITIAL DISCLOSURES AND THIS POS
12	12/23/2025	FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF OR IN THE ALTERNATIVE, A PETITION FOR A WRIT OF MANDAMUS
11	12/17/2025	SCHEDULING CONFERENCE (NOTICE & PROOF)
10	12/16/2025	SCHEDULING CONFERENCE (NOTICE & PROOF) Event: SCHEDULING CONFERENCE Date: 01/23/2026 Time: 8:15 am Judge: QUIST, HONORABLE GEORGE JAY Location: 17TH CIRCUIT COURT- COURTROOM #12A Result: ADJOURNED DUE TO OTHER REASONS
9	12/15/2025	ACKNOWLEDGEMENT/ACCEPTANCE OF SERVICE (SERVED TO CLERK OF THE CITY OF EAST GRAND RAPIDS, LORI ALEXANDER ON 11/19/25) LORI PARMENTER (DEFENDANT); THE CITY OF EAST GRAND RAPIDS (DEFENDANT);
8	12/15/2025	ACKNOWLEDGEMENT/ACCEPTANCE OF SERVICE (SERVED TO MAYOR OF THE CITY OF EAST GRAND RAPIDS, KATIE FANALE ON 11/19/25) THE CITY OF EAST GRAND RAPIDS (DEFENDANT);
7	12/10/2025	POS OF DEFS ANSWER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND AFFIRMATIVE DEFENSES
6	12/10/2025	DEFS ANSWER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND AFFIRMATIVE DEFENSES MICHAEL J. ROTH (Attorney) on behalf of THE CITY OF EAST GRAND RAPIDS, LORI PARMENTER (DEFENDANT)
5	11/19/2025	SUMMONS ISSUED (LORI PARMENTER) LORI PARMENTER (DEFENDANT);
4	11/19/2025	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, OR IN THE ALTERNATIVE, A PETITION FOR A WRIT OF MANDAMUS
3	11/19/2025	SUMMONS ISSUED (THE CITY OF EAST GRAND RAPIDS) THE CITY OF EAST GRAND RAPIDS (DEFENDANT);
2	11/19/2025	ELECTRONIC FILING FEE Receipt: 1446192 Date: 11/19/2025
1	11/19/2025	FILING FEES FOR NEW CASE Receipt: 1446192 Date: 11/19/2025

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EXHIBIT 4

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Michigan Court of Appeals
Jurisdictional Checklist

Lower Court/Tribunal: 17th Judicial Circuit Court

Lower Court Case No.: 25-21067-CZ

Case Name: EGR Responsible Development, Inc., et al. v. City of East Grand Rapids, et al.

INSTRUCTIONS: *For a **civil** claim of appeal, please complete the following statements.*

[SELECT ONE] An **appeal of right** may be filed because the order is: MCR 7.203(A)

- [x] A final order of the circuit court under MCR 7.202(6). Specify subsection: MCR 7.202(6)(a)(i); MCR 7.203(A)(1)
- [ ] A probate court order that falls within MCR 5.801(A). Specify subsection: _____
- [ ] Appealable as of right by law or court rule. Specify law or rule: _____

[SELECT ONE] This claim of appeal is **timely** because it is being filed: MCR 7.204(A)

- [x] Within 21 days from entry of the order appealed from (*as identified above*).
- [ ] Within 21 days of an order deciding a motion for new trial, rehearing, reconsideration, or other relief from the order appealed, *and the postjudgment motion was filed within 21 days of the order appealed from*.
- [ ] Other: _____

Filing Requirements

INSTRUCTIONS: *Please complete the checklist and file with your claim of appeal.*
Failure to file all required documents and requisite fees may result in rejection of your claim of appeal. MCR 7.201(B)(2)

- [x] A **signed** claim of appeal. The caption must list all of the parties in each lower court case appealed. MCR 7.204(B)(1) & (D)
- [x] A copy of the order you are appealing (*as identified in Jurisdiction section*). MCR 7.204(C)(1)
- [x] An official **current** register of actions from the lower court or tribunal showing entry of the order appealed. MCR 7.204(C)(5)
- [x] The filing fee or exception (*example: motion to waive fees*). MCR 7.202(3), MCR 7.204(B)(2)
- [x] Evidence of the transcript (Select one): MCR 7.204(C)(2)
  - [ ] The complete transcript has been ordered. MCR 7.210(B)(1)(a)
  - [ ] No transcript will be filed. MCR 7.204(C)(2)
  - [x] The transcript has already been filed. MCR 7.210(B)(1)(a)
  - [ ] Other: _____ MCR 7.210(B)(1)(b)-(e)
- [x] All parties to the case (*including non-appellees*) are being **e-served through MiFILE**. Service by mail is only acceptable if (1) appellant is a self-represented party, or (2) the receiving party is not registered with **MiFILE**. MCR 7.204(C)(3), MCR 1.109(G)(6)(a)(ii), IOP 7.204(C)(3)

Preparer's Signature: /s/ Brandon J. Wilson

Date: October 26, 2026

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EXHIBIT 5

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STATE OF MICHIGAN

SEVENTEENTH JUDICIAL CIRCUIT COURT (KENT COUNTY)

EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT, INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE and WENDY SCOTT,

Plaintiffs,

v

CITY OF EAST GRAND RAPIDS and LORI PARMENTER, in her capacity as Clerk of the City of East Grand Rapids,

Defendants,

and

GASLIGHT INVESTORS, LLC,

Intervening Defendant.

_____/

File No. 25-21067-CZ

MOTION FOR PARTIAL SUMMARY DISPOSITION
AND MOTION TO COMPEL

BEFORE THE HONORABLE GEORGE JAY QUIST, CIRCUIT COURT JUDGE

Grand Rapids, Michigan - Friday, August 7, 2026

APPEARANCES:

For the Plaintiffs:

MR. CHRISTOPHER J. ZDARSKY (P81809)
BUTZEL LONG, PC
300 Ottawa Avenue, Northwest
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Grand Rapids, Michigan 49503
(616)988-5600

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For the Defendants:	MR. MICHAEL J. ROTH (P51795) VARNUM, LLP PO Box 352 Grand Rapids, Michigan 49501 (616)336-6000
For the Intervening Defendant:	MR. BRANDON J. WILSON (P73042) HONIGMAN, LLP 660 Woodward Avenue 2290 First National Building Detroit, Michigan 48226 (313)465-7000
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Grand Rapids, Michigan

Friday, August 7, 2026 - 8:57 a.m.

THE COURT: Okay. I said nine o'clock for the East Grand Rapids thing, and we're pretty close. Is everyone here on the East Grand Rapids matter? All right. Why doesn't everyone come forward, and then we'll figure out what's going on here. I purposefully brought everything that I was -- that I had to review so everyone could see it. So, it's been a lot. We'll just put it that way, okay?

We have -- I'll announce the case. This is East Grand Rapids Responsible Development, plaintiff -- et al, plaintiff, versus the City of East Grand Rapids and the City Clerk for the City of East Grand Rapids. They're the Defendants. Gaslight Investors is an intervening defendant in this matter. It looks like we have Christopher Zdarsky on behalf of the plaintiff.

MR. ZDARSKY: Correct, your Honor.

THE COURT: Okay. Good morning.

Michael Roth up here on behalf of which defendant? The primary defendant?

MR. ROTH: Yes, City of East Grand Rapids and Lori Parmenter.

THE COURT: And the clerk.

MR. ROTH: Yes.

THE COURT: And Brandon Wilson on behalf of the

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intervening defendant, Gaslight?

MR. WILSON: That's correct.

THE COURT: All right. Very good.

MR. WILSON: Good morning.

THE COURT: Yeah, good morning.

Everybody have a seat. Okay. What I'm going to do is summarize what I believe is going on here, and then I'm going to ask some questions, okay?

So, the controversy that we have here is involving a planned unit development, also known as a PUD, in downtown East Grand Rapids. In 2004, the City of East Grand Rapids approved a PUD in the area in question on a four-to-three vote. In 2024 -- so we have to fast forward about 20 years -- 2024, 2025, Gaslight Investors, who is the developer, proposed to amend the 2004 PUD. I think that this was referred on various occasions as a 2024 PUD, and then a 2025 PUD. I'm going to call it the 2025 PUD, just so it's clear for the record.

Which brings us to the fateful events of October 6 of 2025. That's kind of when everything kind of came to a head. A vote was scheduled at the East Grand Rapids City Commission on the 2025 PUD. Late in that afternoon -- I think at 4:38 p.m., if I recall correctly, a protest petition was served on the City Clerk opposing the 2025 PUD. I would note -- and I'm not sure it matters in the end, but this did put

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the defendants in a very difficult position because the vote was scheduled that night.

The statute that applies to this case is MCL 125.3403. And under that statute, a protest petition is valid if it contains signatures of at least 20 percent of the land area within a hundred feet of the proposed PUD -- of the landowners.

So, after receiving this protest petition on October 6th, 2025, the defendants scrambled to verify the signatures and ownership of the people that signed the petition. They believed that they could not adequately do that, and, therefore, they rejected the protest petition, it's my understanding. And then they proceeded to vote on the 2025 PUD, which was approved again on a four-to-three vote.

The problem is, under the statute, if the pro -- if -- if the protest petition is valid, a two-thirds vote is needed to approve the 2025 PUD, and they didn't get it. It was -- it was -- yeah, that's -- obviously, if they got five out of seven then we probably wouldn't be here. So -- but they got four out of seven.

So, to summarize the plaintiffs' position, if I could, the -- they're alleging or arguing that the protest petition is valid. Per statute, it was submitted in a timely manner, before the vote. And I understand why the City of East Grand Rapids and their clerk were upset and they had to

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scramble to -- to get this done. But, again, the statutory language is the statutory language that says the protest petition has to be before the vote, and it was filed that way.

They're arguing that it does meet the 20 percent threshold. In fact, there is one set of owners of one piece of property, 2179 Wealthy -- is it -- is it Geenen? Is that how you pronounce their last name? It looks like there's Pamela, Richard, and David Geenen. The plaintiffs are arguing that they own 32.5 percent of the land area within a hundred feet of the 2025 PUD. So, they met the threshold. That's what they're arguing. And this is also verified by their -- by their expert, Kenneth Vierzen, who did a survey to verify these facts. And the Geenens, of course, signed the petition, and, therefore, the protest petition is valid in the -- in the plaintiffs' opinion, and the 2025 PUD was -- it should be void because it was only approved four-to-three. They did not get two-thirds of the vote. So that's my summary of the plaintiffs' position.

As far as the defendants' position is concerned -- I'm going to summarize the defendants' position and the intervening defendant's position in one fell swoop, if I could. So, their arguments are that, first of all, the protest petition is invalid. It does not provide sufficient verifiable information regarding the 20-percent-plus ownership. And this is where things get dicey, and I'm going

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to need -- I'm going to have a lot of questions for you guys, just to let you know. The 2025 PUD was administrative, not legislative. And that's a huge issue in this case, and I need to flesh that out. And, therefore, the protest petition mechanism in MCL 125.3403 is inapplicable to this set of facts.

There's also an argument that the 2025 PUD did not, quote, amend a zoning ordinance -- and that is, again, some questions I'm going to ask -- and, therefore, the statute in question does not apply.

There's a couple of other arguments that are being made by the defendants, including that the plaintiffs lack standing and that this motion is premature because discovery is ongoing.

I would -- I would indicate that there is an additional motion -- discovery motion filed by, I believe, the intervening defendant regarding some things that we'll talk about in a minute.

So that's kind of my background of the case. And, I guess, I'll just -- I -- I know this is the defendants' motion, but, Mr. Zdarsky, who is sitting there all by yourself -- so I just have a few questions for you, and I'm just going to go back and forth on some of these questions.

So, first of all, did I miss anything big? Was -- was my -- was my summary of your position essentially

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accurate?

MR. ZDARSKY: Yes.

THE COURT: Okay. Let's talk about this issue that I'm not sure they really addressed, and I think it goes to this administrative versus legislative thing. And it also talks about -- you make a point in your brief, it's like this was a major change. They don't really -- I don't think they really addressed that too much, but -- that this is a major change from 2004 to 2025. And is that what brings it into a legislative issue versus an administrative issue? Is that -- is that the relationship that's important there?

MR. ZDARSKY: No, it's not -- it's not the -- the lead argument, but it -- it certainly is -- supports the notion that this was a legislative act.

THE COURT: Okay. Why is the fact that it's a major change important to the analysis?

MR. ZDARSKY: Sure. Because if it's minor -- the zoning ordinance distinguishes between minor and major --

THE COURT: Okay.

MR. ZDARSKY: -- and if it's -- and if it's minor under the -- the PUD ordinance permits the planning director to simply sign off on -- if it's within the -- the confines of what was originally contemplated and approved through the legislative process of rezoning and -- and the preliminary site plan, then we're just making a minor change, and it

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doesn't need to come before the City Commission.

THE COURT: Oh, it doesn't even have to come before the commission at all.

MR. ZDARSKY: Correct.

THE COURT: And I think they say in their documents this was a major change. They're essentially conceding that.

MR. ZDARSKY: Correct. And -- and the -- and the process and actions they took in approving the 2025 PUD ordinance amendment --

THE COURT: That suggests it is a major change.

MR. ZDARSKY: Correct.

THE COURT: Okay. Does the City dispute that?

MR. WILSON: I -- I -- I can weigh in on that piece, your Honor.

THE COURT: Okay.

MR. WILSON: Just because we -- we split up the brief.

THE COURT: Yeah, that's fine. And I'll be happy to hear from whomever wants to.

MR. WILSON: If I screw up, Mr. Roth will correct me, but --

THE COURT: Okay.

MR. WILSON: There -- there was an initial memo from the planning department when the application was made, which indicated that they thought this was a major change. When

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they did that, it triggered a different review process. Probably a more thorough review process. But what I would point out, in Exhibit 10 to our response, the ordinance that was actually -- or the resolution to approve indicated that this was a minor change.

THE COURT: Oh.

MR. WILSON: So -- and we can get into this, but the City's determination of whether it's major versus minor, whether it's legislative versus administrative, typically the courts are going to defer to the municipality's interpretation of their own ordinances.

THE COURT: Okay. So, again, it's a big deal because if this is a -- again, an administrative change, we don't have to be here, versus a legislative change, then we do. So, your position obviously that is -- it's administrative. So, why is it administrative not legislative?

MR. WILSON: So, I'll give you this example. I mean, we have matters all the time where someone might need site plan review. So, I'd like to build townhomes, and so I'm required to go before the City. I need to show where things are laid out, et cetera. This is essentially the same kind of review process. So, I would say that the issue is not the matter of review or how it was approved. It's the function of what is actually approved at the end of the day. So, a zoning ordinance is going to change a zoning map of the city. This

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is not that. There -- there are land use regulations under the MZEA in the City's ordinance, which affect where buildings are placed, how street signs are erected, orientation. That's the process that went on here. And the -- the courts say that that is strictly an administrative function. It's not legislative.

THE COURT: Let -- let me ask you, hypothetically -- so we're talking about the amended PUD. Are you saying that as long as the changes are within the 2004 PUD, like any changes can be made or are they limited? Are they somewhat limited?

MR. WILSON: I don't know if I can answer that hypothetical.

THE COURT: Let me ask you a question.

MR. WILSON: Yeah.

THE COURT: Let's say, hey, listen, we're going to put a 20-foot -- a 20-story building up in the middle of East Grand Rapids. In the PUD, would that be administrative or legislative? It's within the PUD. It's within the 2004 -- it's within the zone, but --

MR. WILSON: And I would submit to you that the Supreme Court decision in the *West* case in our papers from 1974, Judge Levin, I believe it was in that case, went as far to say if you're rezoning that's affecting the zoning map for the entire city, that's legislative. If you're merely

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dictating -- even zoning he said in that case with respect to a particular parcel, that's a legislative function. What I would point out to the Court here is that --

THE COURT: I think you misspoke.

MR. ROTH: Yeah, you misspoke.

MR. WILSON: Or -- I'm -- I -- excuse me.

MR. ROTH: Administrative.

THE COURT: You got to keep the -- the language straight.

MR. WILSON: What I would point out to the Court here, too, as well is that initially the PUD contemplated -- I believe it was a seven story -- up to seven stories. The scope of this entire project was reduced. There's less parking, the buildings are lower, et cetera. So, there has been no change. What I would say -- the character of the PUD in 2004 was you had parking, residential, commercial, retail.

THE COURT: And you had the same thing --

MR. WILSON: All of those same things exist.

THE COURT: Right. Okay. All right.

MR. WILSON: So, you -- basically, you know -- I was trying to explain this to my 12-year-old last night, which I --

THE COURT: Well, if you can explain it to me, I'd be -- I'd be appreciative, too.

MR. WILSON: I was just -- I -- you know, if she can

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understand it, then maybe I have half a shot. But you -- you have a deck of cards. We still have the same deck. We've just shuffled them differently. And so, we're still within the same PUD. There were just changes to orientation and sizes, but there has been not -- there's been no zoning map change at all.

THE COURT: So, why did the City go through this whole process when they didn't have to? You're saying they didn't have to even do this, go before the Commission.

MR. WILSON: I mean, I don't -- I -- I'll defer to the City on it. I -- my assumption is, given, you know, the scope of the -- the 2004 PUD, it's a large project.

THE COURT: Yeah.

MR. WILSON: My guess is they probably wanted to give it thorough review. They probably wanted to hear from the city and the residents.

THE COURT: Mr. Roth?

MR. ROTH: That is 100 percent --

THE COURT: I mean, you're being -- you're being -- certainly being cautious this way.

MR. ROTH: Yes.

THE COURT: Yeah.

MR. ROTH: But -- and -- and understand the position that the City found itself in here on -- on October 6th.

THE COURT: I know you were in a bad position.

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MR. ROTH: So, we're sitting at counsel table with -- with Mr. Wilson. We make a different decision. He's over there suing us because of our treatment of the protest petition.

So, the primary concern that guided the City through this entire process is what is the legal standard. And -- and that was from 4:38 p.m. on October 6th going forward. That was the focus of -- of the City in handling this protest petition. Not who filed it, not who the developer is, but complying with what the legal standard is. That is made difficult because, under the Michigan Zoning Enabling Act and the particular protest petition statute at issue here, we don't have much interpretive case law. So, we --

THE COURT: I noticed that.

MR. ROTH: -- we really don't have -- we have -- we have the statute worded as it is, and then we do have a body of case law that talks in general terms about other applications, other permits, and what the obligations are of the petitioners in those circumstances. And, typically, the burden of proof falls on the petitioner to establish the propriety and validity of the petition at issue.

And then we take a look at the *Stand Up for Democracy* case, which we cited in our brief. And the Michigan Supreme Court, back in 2012, went a step further and basically suggested when there's a referendum -- we don't have a

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referendum here, but when there's a referendum, strict compliance is -- is mandated in order for you to -- to basically pull the thread, if you will, on these special remedies that are available in some of these statutes. The protest petition, we would suggest to the Court, is one of those statutes. And that -- the *Stand Up for Democracy* case, by the way, the language in that case, the holding, wasn't limited just to the referendum. It talks in general terms about when you are a citizen or you're a petitioner trying to basically obtain rather extraordinary relief with the supermajority requirement, you better comply 100 percent with what the statute requires.

THE COURT: I do want to tell you -- talk to you about that.

MR. ROTH: Yeah.

THE COURT: Because the statute does -- it is kind of bare bones.

MR. ROTH: The statute -- the -- the statute is bare bones.

THE COURT: It's a bare bones statute. So, this is -- and then that's why --

MR. ROTH: It -- yeah.

THE COURT: -- and I -- I'm sympathetic to the City. I mean, I really am because -- but on the other hand, this -- there's nowhere in the statute that says, okay, I have -- I

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have these people sign this petition. I have to provide proof of ownership. I have to provide a survey. I have to provide my driver's license to verify this is my address. There's nothing like that in there.

MR. ROTH: Sure.

THE COURT: That's -- and -- and that's why I thought the City was in a very difficult position.

MR. ROTH: Yeah. And -- and -- and on that issue regarding the 20-percent threshold, I -- I think it bears some consideration here that that 20-percent threshold has to have some meaning.

THE COURT: Sure.

MR. ROTH: And -- and by that I mean if you're going to submit a petition, have at least some evidence that you in fact are who you say that you are. And with this petition, all we had were individuals' names, handprinted, a signature and an address. So, they didn't provide -- and we can quibble whether the statute requires --

THE COURT: I'm sorry to interrupt you, but I was very curious. There's a form.

MR. ROTH: Yep.

THE COURT: How was that generated? Was it generated by the plaintiffs?

MR. ROTH: They provided the form.

THE COURT: Oh, okay. Okay.

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MR. ROTH: They provided the form.

THE COURT: Okay.

MR. ROTH: Yes.

THE COURT: All right. Where did you get the form, Mr. Zdarsky, or your clients get the form?

MR. ZDARSKY: Their prior counsel, Nick Curcio.

THE COURT: Okay.

MR. ZDARSKY: So, they spoke -- my clients spoke to the clerk, asked if they had a form. There -- the City says there is no form particular to protest petitions, so they relied upon counsel to prepare that petition.

THE COURT: Okay. And I would note that -- and this kind of was confusing to me because the statute that's listed on that protest petition is not the statute we're talking about. It's a related statute that refers to this statute. Were you aware of that?

MR. ZDARSKY: No.

THE COURT: Oh, well, do you want me to find it for you?

MR. ZDARSKY: Yeah, 125 -- it's -- yeah, you're right because it's 3202. It's -- it should be, what, 3403.

THE COURT: Yeah. My clerk looked at that -- my law clerk looked at it this morning. Apparently, 3.02 (sic) like refers to 3.3403 -- or whatever we're dealing with here. So, it refers to it. So, I don't think that's a -- a death knell

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to your protest petition. But I've heard from them for a while, so I'll hear -- this -- this legislative versus administrative thing, this is a big issue. So, in your opinion, why is it legislative and what -- what do you have to back that up, Mr. Zdarsky?

MR. ZDARSKY: Sure. So let me make some -- some general points, and then I want to respond --

THE COURT: Sure.

MR. ZDARSKY: -- to answer some of the Court's questions and respond to what --

THE COURT: Sure.

MR. ZDARSKY: -- counsel have -- have said this morning.

First of all, it's -- this is a situation where it walks like a duck, talks like -- quacks like a duck, it looks like a duck, and I'm getting the argument that it's a penguin, right, on October 6th. The 2004 PUD ordinance undisputedly rezoned Gaslight Village from C1, B1 into a PUD zoning ordinance. In order to -- under the MZEA, under the -- the City Charter -- and I'll go through those sections. I mean Section 7.4 of the City Charter, under the -- the Zoning Enabling Act, under 125.3202 states that amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance. In other words, the original ordinance is

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the 2004 PUD, which was a zoning ordinance. If you want to change that ordinance, you need to do so by passing yet another amendment to the zoning ordinance.

THE COURT: You have to start the process anew.

MR. ZDARSKY: Correct.

THE COURT: Okay.

MR. ZDARSKY: Which is consistent again with major change. You're dealing with going through the entire PUD process.

THE COURT: That's consistent with the actions of the City Commission.

MR. ZDARSKY: Correct.

THE COURT: Okay.

MR. ZDARKSY: Furthermore, right to your hypothetical about if you want to build a 20-story building, I mean that's from a -- from a policy perspective within the zoning ordinance or the ordinance about why you need to do that. It makes sense that if something passes 20 years ago and there's contemplation about how this is going to be developed -- 20 years goes by and you now want to fundamentally, in a major way, change that -- what that PUD looks like, you've got to pass it in the same way as a zoning ordinance. And the -- the support we have for the notion that a 20-story building would be a major change and would require a legislative act of a zoning ordinance amendment, we cite to

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VMG versus Byron Township, which says changing the location of a stormwater basin -- the Court found that's a major change, not a minor change. And, therefore, a -- is a legislative act.

So, it's for that reason then that -- and -- and, again, this is -- it's all consistent with this -- the -- the doctrine of legislative equivalency. You -- you amended the -- you rezoned the -- the zoning ordinance by calling -- by creating the PUD. If you want to change that, then you're -- you're following with an amendment to the -- to the zoning ordinance.

And then, importantly, the City Charter, Section 7.4, says, when any part of an ordinance is amended, the whole section as amended shall be reenacted. So, you look at the 2025 PUD ordinance amendment, it amends Section 1 of the 20 -- or the 2004 PUD ordinance. Section 1 says the City is rezoning from -- so it's reenacting and reapproving that rezoning. So that's why, you know, not to belabor the point, this becomes a legislative -- this -- this becomes a legislative act.

And then just kind of -- I -- I don't want to go -- so cut me off if -- if you don't want me to go there yet. But in terms of, you know, the bare bones statute --

THE COURT: I just -- I'll tell you -- I think I'll cut you off because it is what it is.

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MR. ZDARSKY: It is -- it is what it is.

THE COURT: They -- they don't give you -- they don't say it has to be supported by anything.

MR. ZDARSKY: Correct. Now --

THE COURT: I mean, it -- I can under -- you -- probably even you understand why the Commission was --

MR. ZDARKSY: Yes.

THE COURT: -- and the City was in a difficult position, but --

MR. ZDARSKY: And -- and the two points I'll -- I'll just make very quickly is I found -- and I admit I found this last night. There is, on February 18th, 2026, a proposed house bill number 5532 to amend this specific statute. And in that -- that proposed amendment, it contains some additional requirements, right? And it says for each signature of a petitioner, that it wants the printed name of the signer, the mailing address, and if different, the address or parcel or lot number of the land that qualifies each person to sign the petition, right? So, the Legislature clearly understands that it -- this statute, as currently constructed and enacted, requires nothing more than signers of 20 percent of the area of the land. Once that is -- is set forth, the City needs to -- to pause and say, look, there's a presumption of validity. We can review. And if we challenge, then -- then it -- then they -- we -- they can push the burden back on us and say, I

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-- I don't see how you're getting to the 20 percent. And so, you know, the burden now is -- is back on us. And that question is really kind of answered by the affidavits we provided through the Geenens, who say we absolutely have authority and are -- and that's our signature. And then furthermore, right, Ken Vierzen's calculations show that it's -- that we've exceeded the -- the 20 percent.

THE COURT: Okay. Let me -- let me intervene here a little bit on this situation with the Geenens. So, they own -- the three of them own like a one-third interest, I think, in the building.

MR. ZDARKSY: Correct.

THE COURT: Is it 2179 Wealthy?

MR. ZDARSKY: Correct.

THE COURT: Is that what it is? Going based on my failed memory here. But, anyway, and -- and then your -- your -- obviously you have your expert, Mr. Vierzen, verify that's 32.5 percent -- or two -- 32.57 percent, I think, of the -- within a hundred feet of the amended PUD. You didn't wait -- it's a (C)(10) motion. We're on the cusp of closing discovery. Why didn't you wait until at least the discovery deadline was -- I mean, the discovery deadline's a few weeks anyway.

MR. ZDARKSY: Correct.

THE COURT: But you're just saying they don't have

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anything to refute what you're saying, so why wait?

MR. ZDARSKY: As you saw from the responses, there -- there's no -- there's no counter affidavit saying --

THE COURT: And that was going to be my question. I got a lot of stuff to review here.

MR. ZDARSKY: -- that it's -- that we haven't met the 20-percent threshold and --

THE COURT: Or that the Geenens are not the owners.

MR. ZDARKSY: Correct.

THE COURT: Okay. I -- and I want --

MR. ZDARSKY: Now, we -- we got the -- I think in the affidavit, I think that the City says, well, we were under the impression that father was -- was the owner. Okay.

THE COURT: Right. Yeah.

MR. ZDARKSY: But --

THE COURT: The impression is not going to be enough.

MR. ZDARSKY: Right.

THE COURT: Well, what --

MR. ZDARKSY: And so -- and so then kind of diving into the -- the documents, I mean there's -- and there's been no request for any depositions. Counsel and I have talked before the hearing in saying they want to take depositions.

THE COURT: Okay.

MR. ZDARKSY: But it's -- at this point, we say this

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really has been a legal question all along. And so, let's put it to the Court. And at -- and we are entitled to do so. And it's their burden to set forth specific facts that they intend to show and -- and intend to create a -- a factual dispute. Simply saying we're going to take depositions --

THE COURT: Okay. And -- and I just want to verify that, and I'm going to ask Mr. Roth since he represents the City.

Mr. Roth, is there any dispute that the Geenens collectively own the 20 -- whatever that address is? I keep messing up the address.

MR. ZDARSKY: 2179.

THE COURT: 2179 Wealthy. Is there any dispute that they own 2179 Wealthy collectively? The three of them collectively own it?

MR. ROTH: With the additional information that they submitted with the briefing, they seem to establish that they own what we refer to in this case as the Geenen property. That is kind of an after-the-fact supplementation of the record. We needed to take a look and make a decision prior to the time --

THE COURT: I'm not asking that question. I -- I told you I know that you're -- you were in a difficult position. I'm just saying, at this point, as the thing sits today, this is a (C)(10) motion. So, the question is, do you

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dispute -- I'll just ask both questions at once. Do you dispute that the Geenens own the Wealthy Street property, the address we discussed, and do you acknowledge that, based on their -- their expert, that they own approximately 32 percent, or more than 20 percent, of the -- within a hundred feet of the new PUD? Do you dispute those facts? Do you have anything to rebut those facts?

MR. ROTH: The only rebuttal that I would have, your Honor, is the absence of a deed demonstrating who it is that owns the property.

THE COURT: But you understand it's a (C)(10) motion, so you have to give me a competing affidavit that refutes that. So, if you don't --

MR. ROTH: I -- I have -- I have no facts to put in an affidavit to refute that. They -- those are facts known to them. What we've laid out for the Court are -- are facts that are unknown to us. That's why this was denied. They -- they submitted -- they submitted signatures. They submitted signatures without any -- without tying those signatures to ownership. That -- and it's -- it --

THE COURT: I'm not talking about what they did originally. I'm talking about what they did in their motion. And what they did in their motion is they supported their motion by the affidavits of the Geenens, as well as their expert, that verify the two things we were just talking about,

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the ownership of the property and that they exceed the 20-percent threshold. And you're not -- you're not providing the Court any competing affidavits to refute that as required by the court rule. Is that true?

MR. ROTH: We do not have any affidavits to refute that, correct.

THE COURT: And that's -- under (G)(4) I think that's required. Okay. So -- all right. I did want -- and I'm not trying to -- I just tried to --

MR. ROTH: And -- and I just -- I would like to highlight --

THE COURT: Sure.

MR. ROTH: -- that's an -- I made a statement. I think it's incredibly important, again, to put it in context.

THE COURT: Okay.

MR. ROTH: And that is, while this may be a (C)(10) motion, it needs to take a look at that -- when the decision needed to be made, and the decision needed to be -- to be made prior to the time that the City Commission made its vote prior to the -- the action at issue. Had we had the affidavits and the survey with the petition, we may not be in this position. It may -- this may not be an argument. We may be focused, you know, basically exclusively on administrative versus legislative.

THE COURT: Okay.

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MR. ROTH: However, none of that information was -- was provided. Therefore, this does become an issue because we have to take a look at it at the appropriate moment in time. Now is not.

THE COURT: I understand.

MR. ROTH: October 6th is the appropriate time.

THE COURT: Okay.

MR. WILSON: Your Honor, if I --

THE COURT: Go ahead.

MR. WILSON: Just to weigh in on this issue, I mean, we did provide an affidavit indicating what discovery we need to take in our motion.

THE COURT: Well, we'll talk about that in a minute.

MR. WILSON: In our motion, we indicated -- there are questions of facts about the Geenens in particular. We have struggled for now probably over two months to get information out of the plaintiffs. I'm -- I'm not ready to give up the ship on the fact that these entities satisfy the requirements. And more importantly, we have new information, which I haven't been able to verify, which suggests that the -- the Geenens that actually signed the protest petition do not have authority to act for those entities.

So, I think the Court's right to say, you know, why is this being filed. You've got three more weeks of discovery. It was done, I think, as an effort to, you know,

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make a scene with the City. I know there were meetings recently, a City Commission meeting. I think they believe that, you know, having this motion out there was going to get some sway with the Commission. But there is some discovery we need to finish up. And -- and to Mr. Roth's point, we don't know what we don't have. I -- I've -- I've had these conversations now for months with Mr. Zdarsky -- hey, we need your correspondence on the petition. We need to understand who's signing on behalf of the entities, and we just don't have it yet.

THE COURT: Okay. So, you're saying you're not -- you -- you have to take the -- you need to take the Geenens' depositions.

MR. WILSON: For sure.

THE COURT: Okay. Why shouldn't they have an opportunity to take the Geenens' depositions, Mr. Zdarsky?

MR. ZDARSKY: Because, your Honor, I -- I don't represent the Geenens. They haven't asked me if I represent the Geenens or if they can take the Geenens' deposition.

THE COURT: Okay.

MR ZDARSKY: And this is the point -- this is the put up or shut up moment. Saying that they've been trying to -- I mean, we provided the -- the day that our discovery answers and objections were originally due, we provided the affidavits of the Geenens. And so -- and -- and those

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affidavits set forth that they do have authority. They did have authority and do have authority to -- to sign that protest petition. So, they could have taken that deposition at any point between when we provided those discovery -- those -- that document production, and I think it was May, and today. They haven't. And so -- right. Saying that I -- I don't know and I've got information that I need to verify -- this -- this is the moment.

THE COURT: Okay. And does the defense believe they need to take Mr. Vierzen's deposition, the expert?

MR. WILSON: Yeah, we intend to.

MR. ZDARSKY: I -- I -- I have not -- there's been no communication to me saying your expert -- when's he available for a deposition? And nor -- I mean, there -- the -- the deadlines for them to set forth any rebuttal experts came and went. And so, it's at that point that it's saying, okay, I think that this is purely a legal -- this is purely a legal issue.

THE COURT: Okay. All right. What about the standing issue, Mr. Zdarsky? Please address that to the Court.

MR. ZDARSKY: Sure. So most cleanly just put to rest with Janet Rose. Janet Rose is the owner of her condo. She signed the protest petition. The exhibit of her deed that the developer attaches to its motion for -- or its response --

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response brief at Exhibit 17, which they claim establishes that her trust owns the property, not her, is not true. If you look at that quit claim deed, it's conveying the -- Ms. Rose conveys the property to herself. It's a ladybird deed. It provides a future reversionary interest to her trust upon her passing. So, she is the owner of her condo. The condo is within a hundred feet of the proposed change. She owns an undivided interest in the common elements. She's got standing to challenge this -- this claim.

Similarly, right, when you deal with Anna Moore Butzner, she conveyed title individually into her trust. Now, not part of the record is she's -- you know, she is the trustee and the beneficiary of her trust. But regardless here, you know, Michigan's prudential standing doctrine says that there is no -- can be no dispute here that Anna Moore Butzner, who's lived in that pro -- that property since at least 2009 because that's when she conveyed via warranty deed for herself into her trust, is an interested person and has a substantial interest in the outcome. And the statutory scheme, right, implies legislative intent to confer standing because if it's not the signers of the protest petition, then -- then who can?

So, I mean, that's the -- that's -- that's the -- that's the standing -- I mean, that's the -- the cleanest response to -- to their standing. To the extent that there's

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a -- it's their burden as an affirmative defense to standing. And so, if there's any question about that -- I mean the -- the Janet Rose exhibit that they attached to their response eliminates any doubt.

THE COURT: Okay. Let's talk about the standing issue, and then we're going to talk about discovery and whether it -- it needs to be extended or not. Who wants to address the standing issue on behalf of the defense?

MR. WILSON: I will.

THE COURT: Go ahead, Mr. Wilson.

MR. WILSON: So, just to kind of lay it out as simply as I can, you know, if you look at the roster of plaintiffs here, neither Plaintiff Afton or Chronowski signed the protest petition. Neither one of them owns property within a hundred feet. So, strike them out.

Both of the plaintiff entities, EGR and Gaslight Village Responsible Development, neither one of those entities signed the protest petition. I'm not aware that either one of them owns property within a hundred feet.

The deeds for Butzner and Scott's property are to trusts. This argument that it's not in a trust -- I mean, perhaps we need some discovery to -- to tamp that down. But the case law is very clear, the court rule is clear, if you're -- if the trust is the actual party in interest, then the trustee needs to be a party to the case. So, individually,

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they don't have standing.

And then the issue with Ms. Rose is she's a condo unit owner. There's case law which suggests -- like, her unit, I believe, based on the information we have, would be beyond a hundred feet. She's making this argument that, you know, by virtue of being a part of an association, she has some ownership in the common elements.

THE COURT: Oh. So, the condo -- the condo development is within a hundred feet within the PUD, but she individually is not.

MR. WILSON: Correct.

THE COURT: Okay.

MR. WILSON: And so, then you're in this -- this game of trying to figure out where are these elements located, what portion of them do you own, and does that then give you standing? So that -- that's an issue that we need to just look through and -- and investigate further.

THE COURT: Okay. Mr. Zdarsky, do you want to -- oh, go ahead, Mr. Wilson.

MR. WILSON: I have one more great thought. I apologize.

THE COURT: Okay. I'll determine if it's a great thought or not.

MR. WILSON: What they're missing, too, and this is part of the discovery dispute we've been having, is we've

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asked for evidence that they've got special damages. So, in these kinds of cases, you have to show that you're being injured in some way that is different than the general public. So, the general public may say, we don't like developments, but that -- that is not a special injury. We don't have any information to substantiate that they do have special damages or harm in this case.

THE COURT: Okay. Anything else on the standing issue? Then we're going to kind of move on to a separate issue about discovery and potentially depositions.

Go ahead.

MR. ZDARSKY: Yes, I -- I would just say I would rely upon our reply brief with respect to the standing as opposed to the opening brief where I think we -- we sought to prove too much by saying we need to establish special damages. Special damages are required if -- look, if this zoning ordinance amending the PUD is invalid and the developer then develops, and then plaintiffs bring a nuisance per se claim saying you're violating the -- the ordinance that says this is what the PUD needs to be, you know, and -- or it was not validly passed, then I need to establish special damages.

We're dealing with a declaratory judgment action here. All I need to establish is that we have an actual controversy. I don't think there's any question about that. And, two, we've got a substantial interest. These parties and

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plaintiffs have a substantial interest in the outcome of the -- - of the controversy.

THE COURT: Okay. Mr. Zdarsky, let's say -- this is -- this is my fear. Well, one of my fears is that let's say I grant summary disposition for you in your favor -- in your clients' favor, on this issue and it go -- this goes up on appeal, which it probably will, and that's fine. And then the appellate attorney -- or the appellate panel looks at it a year, a year and a half from now, and they say, you know, maybe the plaintiff has some great arguments, maybe they're right, but the Court should have let them depose the Geenens and their -- and the expert, and then this gets remanded and we're doing this again two years -- two years from now. Wouldn't it just be better if we at least allowed some limited discovery before I decided this? I know you don't want me to, but that's a concern I have. Do you want to address that concern for me, please?

MR. ZDARSKY: Sure. It -- it's simple -- it's as simple as (G)(4) says we've come forward, we've met our burden. I didn't need to establish this when we submitted the protest petition, but we've eliminated any doubt about that. And so, now waiting until -- I mean the -- it's -- that's what they want by filing a motion to compel when we've been -- I've made very clear since May the communications from my clients and among my clients about the protest petition is not going

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to move the needle. We haven't heard at all about how that could possibly change whether it's a legislative act or whether or not we've met the 20 percent, right? Really the only fact issue here is do -- does somebody -- do we have 20 percent, and the City has conceded we don't dispute that, that if the Geenens signed this thing, that -- that we've met that threshold. And so, it's a -- simply a matter of they had their opportunity. There is -- there's no hard and fast rule that says I need to absolutely wait until the end of discovery. And the reality is, is when we first filed the lawsuit, the City took the position at a Commission meeting saying, we are not going to take any action any further with respect to this PUD moving forward because of the act of litigation. Well, now they're moving forward with the -- with, you know, continuing down the process of approving, you know, a final kind of concept. And so, that's why we brought the motion here. It -- it's time for a -- a judgment day, so -- so to speak. And so, there's just -- it's not going to move the needle, and you haven't been presented anything to suggest that it's going to move the needle.

THE COURT: Okay. All right. Well, let's talk about Gaslight's motion to compel discovery and extend deadlines. And I'll just -- again, I reviewed the motion filed by Gaslight, and we're talking about -- we can go through them. I'm not going to go through individually, but

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we're talking about requests for production 2, 3, 10, 12, and 13, I believe. And then I was saying, well, initially like, yeah, this -- this looks relevant, and then I reviewed the response from Mr. Zdarsky, which says, listen, it -- it -- the bottom line, I think, is that Mr. Zdarsky's arguing the correspondence and how the petition came about or anything like that is not relevant to the claims or defenses in this case or proportional to the needs of the case. What's relevant is whether the -- whether the protest petition was properly filed, not how it came to be filed or the people's thoughts about it. That's basically your position. Is that right, Mr. Zdarsky?

MR. ZDARSKY: Correct.

THE COURT: Okay. Do you need to supplement that or am I -- am I missing something?

MR. ZDARSKY: No.

THE COURT: Okay.

MR. ZDARKSY: That's it.

THE COURT: All right. So -- because I did -- that and that's -- that was kind of my impression here.

But, Mr. Wilson, I'll be happy to hear what you have to say on the subject.

MR. WILSON: Yeah. I mean, I -- I -- today was a perfect example. You asked a great question. Where'd you guys get the protest petition form? I -- I had no idea.

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That's news to me. And -- and I think their correspondence -- so the petitioner's correspondence about this petition, did they know that -- you know, was there a plan to submit it at the -- the last hour? Did they think they had the 20 percent? Did they know they had problems with ownership? I mean, all of these are -- are questions that could be answered through this correspondence that may detract from what they're telling, you know, the Court on -- on this motion. It's -- you know, asking a party for its correspondence about the facts and events leading up to a case -- I mean, if -- if that's not relevant, I don't know what is. And -- and the issue here is there -- we -- we do suspect that there are issues with the sufficiency of not only the petition, but the manner in which it was submitted. And I'm -- I'm not willing to wave the white flag on the 20 percent because I -- I think there are potentially issues. What better to figure that out than let's see what these folks are talking about?

THE COURT: Yeah. But discovery -- it's -- it's August 7th. Discovery was supposed to lapse August 26th. How long did you have for discovery? Six months. And you didn't do anything?

MR. WILSON: I don't -- we didn't have six months of discovery.

THE COURT: Well, I don't know what you had. I can't remember. I don't have my pretrial scheduling order

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here.

MR. WILSON: I --

MR. ZDARSKY: Pretty close.

THE COURT: That's what I normally give. Let me ask my clerk.

THE CLERK: I can look.

THE COURT: We're going to look right now. We did a pretrial scheduling order, which usually comes out like two or three months --

MR. ZDARSKY: Scheduling order was entered on February 24th.

THE COURT: Okay.

MR. ZDARSKY: Setting discovery until August 26th.

THE COURT: Probably six months, which is --

MR. ZDARKSKY: Six months.

THE COURT: That's six months. I can do -- eight minus two is six. We've had six months.

MR. WILSON: No, it -- we -- we've been -- I've been working on getting these documents since, I believe, May. And to Mr. Zdarsky's credit, we've written letters back and forth. We've had meet and confers. He obviously disagrees with, you know, producing these documents. That's his right. But this is not a case where we've just, you know, sat on our hands and did nothing about it.

THE COURT: Well, you didn't depose -- how -- how

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long have you had his report -- or Mr. Vierzen's report or when did you get these affidavits from the Geenens? Probably a long time --

MR. WILSON: I can't recall. The -- the report though is -- is not that old, I don't believe. It was -- Chris --

MR. ZDARSKY: Yeah. So, we produced the Geenens' affidavits when we -- in May when we produced the initial wave of a document production, and we disclosed Mr. Vierzen in accordance with the schedule --

THE COURT: The order.

MR. ZDARSKY: -- on June 27th.

THE COURT: Okay. Okay.

MR. ROTH: Your Honor, if I -- if I may?

THE COURT: Yeah, go ahead, Mr. Roth.

MR. ROTH: The City's position on this is we want to take some depositions. We just wanted to wait until the document discovery was complete, knowing that these issues were ongoing between Gaslight Investors and the plaintiffs group. We just -- we wanted to be efficient. And when that issue was resolved, take depositions. We have a few that we want to take.

And I would submit to the Court that probably their motion is premature in that there is the possibility that some of the questions we could ask during discovery could change

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this record materially. And -- and if that potential exists, the case law is pretty clear that a motion such as -- a dispositive motion is premature.

THE COURT: Yeah. And I'm kind of like on the fence between that position and then what (G)(4) says, that you have to submit competing affidavits, which you didn't do. But I -- I guess that's where I'm kind of -- I got a devil and an angel on each shoulder --

MR. ROTH: Sure.

THE COURT: -- talking to me about those things.

MR. ROTH: Yep. No, I understand.

THE COURT: Okay.

MR. ZDARSKY: I -- I -- my last thing I would say on the discovery piece is if that would -- if -- if that -- if saying we -- we want to take some depositions and it might materially change the facts here, then no motion could ever be granted before the close of discovery. And we know that that's not the case.

With respect to the developer's position about why it wants the communications, again, none of this is relevant. What my clients thought about timeliness -- the reality is it was timely. Whether or not they feel like they have 20 percent -- it doesn't matter because it's been established that they do. And whether or not they had any problems -- again, where the form came from doesn't -- is not going to

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change any question of fact that the Court needs to establish here in order to grant us the declaratory relief we're seeking.

THE COURT: Okay. I've got an evidentiary hearing at ten o'clock. I'll make a statement about how I plan to proceed, and then we'll go from there. I would love to do a written opinion articulating everything, but, frankly, given the Court's docket and schedule, that's not going to be possible.

I'm going to give an oral opinion, and I'm going to do it on -- on Monday at 11:00 a.m. And I'll do it by Zoom. If you guys want to come in person, that's fine, too, but I'll do it -- and -- and I'm just -- I worked a lot on this case. Hopefully, you can understand that, that I -- I didn't come in here knowing nothing. I tried to explore all the issues. I think I've worked pretty hard. My opinion will not be as thorough as I'd really like it to be, but that's the nature of being a circuit court judge. I have a -- one of my colleagues is setting out summary dispositions four months because -- just because they keep stacking up, and I just plow through them. And so, you're going to get hopefully a fairly articulate opinion on Monday, but it might not be everything you'd hope for.

But I always tell people if they've got a problem with my opinion, you can bring it to the Court of Appeals

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where there's three judges that are smarter than I am, that have more resources than I do, that can give you a -- a different answer if you don't like the answer I'm going to give you.

So -- but I'll give you -- everyone the last word if they want it before we conclude this matter.

Mr. Wilson, anything else in conclusion?

MR. WILSON: I don't have anything further. I appreciate your time and effort and --

THE COURT: Okay. All right. At least I want you to know I -- I have put some -- I put a lot of effort into this. I didn't shirk my responsibilities, I didn't think.

MR. ROTH: No, I actually -- the only comment I have is I appreciate this manner of argument.

THE COURT: Okay.

MR. ROTH: I -- I thought it was -- I think it's very helpful and probably instructive for you.

THE COURT: Okay.

MR. ROTH: And we don't need to reiterate what we've already briefed. And thank you for your time.

THE COURT: Okay. Mr. Zdarsky?

MR. ZDARSKY: Same. I'm going to go against my better judgment and say -- and I could go on forever, as I'm sure we all could, but we appreciate the -- the manner in which this argument was conducted today. So, thank you.

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THE COURT: Okay. Well, I'll do my best, and eleven o'clock I will fire off a -- a bench opinion. It won't be super long and you'll get an answer, okay? On both motions.

MR. ROTH: Thank you.

THE COURT: All right. Thank you.

MR. ZDARSKY: Thank you.

THE COURT: Yep.

(At 9:45 a.m., proceedings concluded)

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STATE OF MICHIGAN)

COUNTY OF KENT)

I certify that this transcript, consisting of 45 pages, is a complete, true, and correct transcript to the best of my ability, of the proceedings and testimony taken in this case on Friday, August 7, 2026.

9-9-26 Stacy Dilworth

Date

Stacy Dilworth, CER 8188
17th Circuit Court
180 Ottawa, N.W., Suite 12200A
Grand Rapids, Michigan 49503
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EXHIBIT 6

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STATE OF MICHIGAN

SEVENTEENTH JUDICIAL CIRCUIT COURT (KENT COUNTY)

EAST GRAND RAPIDS RESPONSIBLE DEVELOPMENT, INC, GASLIGHT VILLAGE RESPONSIBLE DEVELOPMENT, RUSS AFTON, ANNA MOORE BUTZNER, JOHN CHRONOWSKI, JANET ROSE and WENDY SCOTT,

Plaintiffs,

v

File No. 25-21067-CZ

CITY OF EAST GRAND RAPIDS and LORI PARMENTER, in her capacity as Clerk of the City of East Grand Rapids,

Defendants,

and

GASLIGHT INVESTORS, LLC,

Intervening Defendant.

_____/

ORAL OPINION

BEFORE THE HONORABLE GEORGE JAY QUIST, CIRCUIT COURT JUDGE

Grand Rapids, Michigan - Monday, August 10, 2026

APPEARANCES:

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Grand Rapids, Michigan

Monday, August 10, 2026 - 11:04 a.m.

THE CLERK: All rise.

THE COURT: Okay. Be seated, please.

All right. We are here this morning in the matter of the East Grand Rapids Responsible Development, Incorporated, and others, plaintiffs, versus the City of East Grand Rapids and Lori Parmenter, in her capacity as the City of East Grand Rapids City Clerk. They're the defendants. And Gaslight Investors is an intervening defendant in this case.

It's my understanding that Mr. Zdarsky is back for the plaintiffs, and Mr. Roth and Mr. Wilson are also back. There's also some other interested parties in the courtroom and on Zoom here today.

I want to be very clear about what the Court's role is in this case. I need to decide if the parties complied with the appropriate laws and statutes and procedures and rules. It is up to the citizens of East Grand Rapids and their elected officials to determine what type of development they need or want in downtown East Grand Rapids. That's not my decision.

I do want to commend the attorneys on the briefs and the oral argument that we had on this past Friday, August 7th. I think it enlightened the Court quite a bit.

Finally, when we get to this stage of the

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proceedings, someone has to win and someone has to lose. This was a difficult decision for the Court, but the Court has to make tough decisions. I am not offended if anyone appeals to the Court of Appeals in this case.

That being said, we have two motions that are pending at this time. The more substantive motion is the plaintiffs' motion for summary disposition -- or partial summary disposition on Count 1 of their complaint, a declaratory action regarding a protest petition. There's also another motion. That's Gaslight's motion for discovery and to extend -- extend the scheduling deadlines.

Just by way of background, this is a controversy regarding a planned unit development, also known as a PUD, in downtown East Grand Rapids. In 2004, the City of East Grand Rapids approved of the PUD on a four-to-three vote, I believe, by the East Grand Rapids City Commission.

Which puts us in 2024 and 2025. Gaslight, who is the developer in this case, proposed to amend the PUD. This will be referred to in the Court's opinion as the 2025 PUD. A vote was scheduled on October 6th of 2025, in the evening. However, at 4:38 p.m., a protest petition was filed opposing the 2025 PUD. This put the defendant, the City of East Grand Rapids and their clerk and their attorneys, in a difficult position because they didn't have a lot of time to verify whether this was an appropriate protest petition or not.

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The applicable statute is MCL 125.3403. Under that statute, a protest petition is valid if 20 percent or more of the owners within a hundred feet of the PUD sign the protest petition. The defendant scrambled on October 6th of 2025 to confirm ownership of the people who signed the petition. They did not feel that they could adequately do that to their satisfaction, and, therefore, they rejected the -- the protest petition as invalid, and then they proceeded with the vote. And on the 2025 PUD, it was approved by the East Grand Rapids City Commission by a four-to-three vote.

The problem is, under the statute, which I mentioned earlier, if the protest petition is valid, a two-thirds vote is needed to approve of the 2025 PUD, and the Commission was one vote short.

So, the plaintiffs' position in this case is that the protest petition is valid. Per statute, it was submitted in a timely manner, meaning before the vote. That is what was required by statute. They also argue that the protest petition meets the 20-percent threshold because the owners of 2179 Wealthy -- Pamela, Richard, and David Geenen -- own 32.57 percent of the land within a hundred feet of the 2025 PUD and -- and they signed the petition. Their land ownership and the percentage of it was also verified by the plaintiffs' expert, Kenneth Vierzen, who verified that 32.57 percent ownership. Based on these facts, the plaintiff argues that the protest

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petition is valid and a four-three vote by the East Grand Rapids City Commission is null and void because they did not meet the two-thirds threshold.

I will combine the arguments of the defendant and the intervening defendant. The intervening defendant is Gaslight. The primary defendant is the City of East Grand Rapids and the clerk. The defendants argue that the protest petition is invalid because the ownership of the 20 percent could not be verified. They argue that the 2025 PUD is administrative in nature, not legislative, and that the protest petition mechanism in the statute does not apply. They also argue that the 2025 PUD is not an amendment to a zoning ordinance, also making the statute inapplicable. Finally, they argue a lack of standing on behalf of the plaintiffs and that the plaintiffs' motion is premature because discovery is ongoing.

The parties raised other issues related to the summary disposition motion, but the Court will primarily address two issues in this case because I find that they're the most relevant and important to the analysis here.

The first issue is -- issue one is, was the protest petition valid? The short answer is yes, it was valid or it is valid. It was submitted in a timely manner, before the vote. That's all that the statute requires. I understand and am sympathetic to the defendants' frustration, and some of

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it's justified because of the timing of the petition shortly before the vote. But the statute is clear. It simply has to be presented before the vote. It also contained 20 percent or more of the people owning land within a hundred feet of the 2025 PUD. This is verified by the unrebutted affidavits of the owners of 2179 Wealthy, the Geenens, who signed the petition and own 32.57 percent of the property in question. This is also verified by the plaintiffs' expert, Kenneth Vierzen.

The Court is not convinced by the defendants' arguments on this issue. This is a (C)(10) motion under the Michigan Court Rules. To survive it, defendant must present affidavits to create a genuine issue of material fact under Michigan Court Rule 2.116(G)(4). They have failed to do so.

Moreover, simply because discovery is open does not preclude summary disposition or relieve defendants of their -- their obligations under (G)(4) of the statute.

Finally, discovery has been open for nearly six months, since February. Defendants have had ample opportunity to rebut the ownership of 2179 Wealthy or Vierzen's expert testimony. They have failed to do so. And, therefore, the Court finds that the protest petition is valid.

The second major issue in this case is, was the change from the PUD in 2004 to the PUD in 2025 an administrative or legislative change? If it is merely

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administrative, the protest petition and the statute is inapplicable. The Court finds, however, that -- that the change was legislative, not merely administrative, for several reasons.

First of all, the Court finds that Michigan law cited by the plaintiff supports that rezoning of a PUD is a legislative, not administrative, act.

Second, that the East Grand Rapids ordinances and bylaws provide that if a PUD is being amended, the parties have to go through the legislative process.

Third, that the amendments represent major changes regarding the square foot of the commercial space, the number of residents, and parking spots.

And, finally, though not dispositive, the East Grand Rapids City Commission treated it like it was legislative because they went through the administrative -- legislative process when they voted.

So, for all of those reasons, the Court finds that the change from 2004 to 2025 -- those changes in the PUD were legislative, not administrative.

Now, the -- the parties, primarily the defendants, raised several other issues in this case. I consider many of them to be tangential, but others could argue that it's important. One of those is standing. One of those is whether the motion is premature and whether the 2025 PUD was amending

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a zoning ordinance. I will not address those issues specifically. I will simply adopt the plaintiffs' arguments on all of those issues and anything -- any holes I have in my analysis as the analysis of the Court. Again, I'm adopting plaintiffs' arguments as the analysis of the Court. This is appropriate based on Michigan Court Rule 2.517(A)(4) and the Michigan Court of Appeals case of *Lud v. Howard* at 161 Michigan -- Michigan Appeals 603, a 1987 case.

Therefore, the motion for partial summary disposition on Count 1 is granted, and the plaintiffs are entitled to the relief outlined on page 20 of their brief.

That brings us to the second motion, which is relatively minor compared to the one I just decided. That is Gaslight's motion to compel discovery and extend deadlines. There are disputes regarding various discovery responses from the plaintiff to Intervening Defendant Gaslight's request for production, including numbers 2, 3, 10, 12, and 13. The Court is also going to respectfully deny Gaslight's motion. The Court agrees with the plaintiffs that these requests are not relevant to the claims or defenses and not proportional to the needs of the case. What is relevant is whether the protest petition was properly filed and is valid, which it is, as the Court finds, not how it came to be filed or the thought process in filing it.

So, therefore, in conclusion, the plaintiffs' motion

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for partial summary disposition is granted. Gaslight's motion -- Gaslight's motion is respectfully denied. The Court will enter appropriate orders and send them to -- to counsel today by both email and mail.

Mr. Zdarsky is present on behalf of the plaintiff. Any comments or questions at this time, Mr. Zdarsky?

MR. ZDARSKY: Only that Count 2 from -- from plaintiffs' perspective is -- is moot at this point because of the fact that the Court's -- the Court's ruling is that the approval of the 2025 PUD is null and void. Count 2 was a request for a referendum on that ordinance. I guess, I'd ask the Court, is the Court inclined to dismiss it as moot? Would you like us to deal with that with the -- with the defendants in order to enter a final judgment?

THE COURT: Well, in light of that, I'm always happy to enter final orders dismissing the case and closing the case, and that's what I'd love to do, but you didn't -- that was a little vague, but I assume that was alternate relief. And if you're satisfied with the Court's decision on Count 1, maybe everyone can just stipulate to the dismissal of Count 2, and then the Court can enter a final order in this matter. Does that make sense to you?

MR. ZDARSKY: It does.

THE COURT: Okay. Thank you.

Mr. Roth is here by Zoom for the City of East Grand

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Rapids and their clerk. I know you don't agree with my decision, but as far as the disposition of this case and closing the case and dismissing Count 2, do you have any objections to Mr. Zdarsky's suggestion, Mr. Roth?

MR. ROTH: I don't know that we do, your Honor. We will consult with Mr. Zdarsky, and I -- I think we are fine with the dismissal of Count 2.

THE COURT: Okay. And, Mr. Wilson, any comments regarding that matter?

MR. WILSON: Sorry. No, not for me. I guess we can -- we can talk with plaintiffs' counsel and see if there's a -- an appropriate way to dismiss the case if that's what -- what's going to happen. I mean, I guess it's implicit, but the request to extend the scheduling order is also denied, Judge?

THE COURT: Yes, that's true. Okay. Well, since I'm not getting a hundred percent clear answer, I think I will not close the case, but maybe you guys can follow up and enter a stipulation and we can get a final order. So, these orders will not indicate that they're final orders closing the case, but hopefully we'll receive that shortly, okay, Mr. Zdarsky?

MR. ZDARSKY: Absolutely.

THE COURT: Okay. That's the order of the Court. I'll send you guys copies by email and mail today, and thank you very much.

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MR. ZDARSKY: Thank you, your Honor.

(At 11:17 a.m., proceedings concluded)

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STATE OF MICHIGAN)

COUNTY OF KENT)

I certify that this transcript, consisting of 14 pages, is a complete, true, and correct transcript to the best of my ability, of the proceedings and testimony taken in this case on Monday, August 10, 2026.

9-9-26 Stacy Dilworth

Date

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