TO: Mayor and Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney LGB
Christopher J. Forsyth, Assistant City Attorney CJF
DATE: August 16, 2006
SUBJECT: Appeal of In Re: Hooters lawsuit

On Friday, August 4, 2006, Hooters Inc. of Troy filed an appeal with the Michigan Court of Appeals in the *In Re: Hooters* lawsuit. In this appeal, Hooters challenges the decision of Oakland County Circuit Court Judge John McDonald, who upheld City Council's denial of the request of Hooters to transfer a Class C Liquor License and Entertainment Permit, and denied Hooter's request for superintending control.

In addition to filing an appeal, Hooters also filed a Motion For Immediate Consideration and a Motion For Peremptory Reversal. The City's response to these motions was due and filed on Wednesday, August 9, 2006. On Wednesday, August 16th, the Michigan Court of Appeals decided the motions without oral argument.

Hooters unsuccessfully argued in its Motion for Peremptory Reversal that Judge McDonald's decision was "reversible error so manifest that an immediate reversal of the order should be granted without formal submission."

The Court of Appeals granted Hooters Motion For Immediate Consideration, but denied its Motion For Peremptory Reversal. The Court of Appeals panel found that Hooters failed "...to persuade the Court of the existence of manifest error requiring reversal and warranting peremptory relief without argument or formal submission."

A copy of the order is attached for your review. Although the Court of Appeals denied the Motion For Peremptory Reversal, the order does not dispose of Hooters' claim of appeal. This appeal will likely take up to six months for final adjudication, assuming that it will be placed on an expedited track at the Court of Appeals.

Our office will continue to defend the City's interests in this matter. If you have any questions, please let us know.

Court of Appeals, State of Michigan

AUG 16 2006

ORDER

In re Hooters of Troy Inc

Docket No. 272155

LC No. 06-075618-AS

Kathleen Jansen
Presiding Judge

Mark J. Cavanagh

E. Thomas Fitzgerald
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion for peremptory reversal pursuant to MCR 7.211(C)(4) is DENIED for failure to persuade the Court of the existence of manifest error requiring reversal and warranting peremptory relief without argument or formal submission.

Presiding Judge

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 16 2006
Date

Sandra Schultz Mengel
Chief Clerk