

Clarkston sued, accused of favoritism after rejecting re-zoning request for proposed new restaurant

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PUBLISHED: October 30, 2015 at 2:51 p.m. | UPDATED: June 17, 2021 at 7:12 a.m.

A partnership seeking to open a bar and restaurant in Clarkston has filed suit against the city, accusing officials of showing favoritism to a family that owns other restaurants in the area and has a member on city council.

CBC Joint Venture filed the suit this month in Oakland County Circuit Court after its request for rezoning of an apartment building at 59 S. Main St. was rejected. The partnership filed an application for rezoning in February, and after some initial discussion with city officials, an amended application was submitted in June.

Curt Catallo, who is not a defendant but is named in body of the lawsuit, owns Union Joints, which owns the Clarkston Union and the Union Woodshop in Clarkston, among other restaurants. The suit accuses the city of showing his family favoritism, but Catallo said the situation is “not apples to apples as far as I understand.”

During a July 20 Planning Commission meeting, Sharon Catallo, now a city council member, objected to the request. Cara Catallo, chair of the City Historical District Commission, also objected to the rezoning petition, as did City Zoning Board of Appeals member William Basinger.

Sharon Catallo, Cara Catallo and William Basinger did not respond to a message seeking comment.

At the meeting, representatives of CBC Joint Venture and Clarkston residents “spoke in favor of the rezoning ... and complained of a double standard applied by the city of Clarkston, setting one standard for certain petitioners, including the Catallo family, and ... a different, less favorable standard for (CBC Joint Venture),” the lawsuit states.

Those who objected to the rezoning “influenced the city planning commission as they hold influence over city planning commission members,” the lawsuit states.

At an Aug. 3 city council meeting, the Catallos and Basinger again objected to the request. The matter was adjourned until the following week, where again, the Catallos objected.

Sharon Catallo said there was a need for a buffer between village commercial and residential zoning during that meeting, according to the lawsuit. Basinger was not present but later objected by adding documents to the file.

“Several residents argued for the rezoning request, stating that whenever a Catallo family member requests a restaurant, pool hall, outdoor seating (or) roof top seating, it is granted by the city council and/or the planning commission, but if anyone else requests a bar (or) restaurant in the city of Clarkston, it is denied,” the lawsuit states.

Curt Catallo said the Union and Woodshop were never rezoned, and his 148 N. Main St. location has had a change of plans.

It was “a gas station we bought and wanted to turn into a restaurant,” he said.

“We spent over a quarter of a million dollars on due diligence and were unable to do it because of the city. If we were different people, we might have grounds for the same kind of complaint, but we believe in Clarkston for the long run.”

A zoning change from residential to commercial was approved for that property last year, according to the CBC Joint Venture lawsuit, but it continues to be zoned as residential. Earlier this year, the planning commission approved Catallo’s request to move the proposed restaurant from 148 N. Main St. to 28 S. Main St. and also agreed to allow rooftop dining at the facility.

“If you can show me favoritism, I’d love to see it,” Catallo said.

“We play by the rules. We’ve never asked for rezoning. The exact same discussion came up in 1995 when we opened the Union and we never asked for rezoning there.”

Catallo also mentioned a proposed restaurant, owned by James and Sarah Schneider, to be housed in the Clarkston State Bank building on Main Street. The council approved the restaurant at 15 S. Main St. earlier this month, according to The Clarkston News.

“That was approved rather easily,” Catallo said.

The Catallo family also owns the Department of Public Works building at 3 E. Church St., which is adjacent to residential property. The city approved a restaurant for that facility in June.

The buildings housing the Clarkston Union and Union General, owned by the Catallos at 50 and 54 S. Main St. “are the oldest buildings in Clarkston, built in 1847,” the lawsuit states. The First Baptist Church was at 54 S. Main, and its parsonage was at 50 S. Main.

Sharon Catallo and Basinger were on city council in 1994 when the buildings were converted to a bar and restaurant after Catallo's husband, Clarence Catallo, petitioned for the change, the suit states. Catallo recused herself, as did Basinger, whose wife was hired by the Catallos to do interior decoration at the facility.

"When the Catallos were in the process of converting the 1847 Baptist Church into a bar/restaurant, numerous residents wrote letters to the city of the village of Clarkston objecting to turning the church into a bar," the lawsuit states.

"Based on the religious and historical nature of the church and parsonage, the residents pointed out that making the church a bar was inappropriate, sacrilegious and would change the character of the city. Residents predicted that if the church and parsonage were converted into a bar, the entire nature of the village of Clarkston would change from being a quaint, charming village to a restaurant destination. Since 1994, the character of the city has changed from a quiet, non-busy village to a restaurant destination. Nights and weekends, the village is extremely busy with bar and restaurant patrons."

The suit accuses the city of violating its own master plan and zoning ordinance "to accommodate selected petitioners."

The plaintiffs lost \$2,000 on their facility as an apartment building in 2014 and say it cannot reasonably be used as it is currently zoned. They seek a declaratory judgment finding the existing zoning classification to be invalid; a permanent injunction against enforcement of the existing zoning classification; a permanent injunction against the city's interference with the proposed use of the property; an injunction or order directing the city to approve the rezoning request; a permanent injunction enjoining the city from preventing the plaintiffs from operating a restaurant on the property as proposed; monetary damages, costs and fees; and an amount of money in excess of \$25,000 plus interest, costs and fees.

The case has been assigned to Oakland Circuit Judge Martha Anderson.