

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OV THE FARM, LLC, <i>ET AL.</i> ,)	
Plaintiffs,)	
)	No. 1:25-cv-1588
v.)	
)	
)	Honorable Paul L. Maloney
PENINSULA TOWNSHIP,)	
Defendant.)	
_____)	

**OPINION AND ORDER DENYING PLAINTIFFS’ MOTION FOR A
PRELIMINARY INJUNCTION**

This matter is before the Court on Plaintiffs’ motion for a preliminary injunction. (ECF No. 15). Plaintiffs, OV the Farm, LLC (which operates under the name “Bonobo”), Bowers Harbor Vineyard & Winery, Inc., and Wineries of the Old Mission Peninsula Association (“WOMP”), a trade association representing several wineries, sued Defendant Peninsula Township under several theories. But the present motion is based solely on Plaintiffs’ state law preemption claim relating to Defendant’s supposed policy preventing the wineries from serving certain kinds of food. Plaintiffs cite a provision of the Michigan Liquor Control Code allowing them to operate “restaurants.” As that term is used in the statute, “restaurants” include a long list of different kinds of establishments, some of which serve neither full-service meals nor solid food of any kind. Plaintiffs’ substantive position, that localities may not limit what a winery may order off that statutory menu at all, would force local governments to accept wineries operating anything from a movie theater to a nightclub to an industrial feeding operation in the same location. This would effectively eliminate the

consistent principle from state court decisions that local governments may add limitations to what state statutes permit so long as they do not prohibit it outright.

Plaintiffs' contention that the food-restriction policy even exists is based on a single letter sent from the Township's counsel to Bonobo's counsel on November 21, 2025. Defendant argues that this letter is insufficient to ripen this case into a justiciable case or controversy because it insufficiently clarifies what Defendant's supposed policy is and how it would apply to Plaintiffs. Indeed, as testimony at the Court's hearing on this motion revealed, the Township *believes* it has a standard as to what food could be served and what food could not but has not written that standard anywhere nor given it substantive definition. While this could prove important in any challenge to an enforcement action on vagueness grounds, the present motion is based solely on state law preemption. Without any clear sense of how far the government regulation goes, the Court cannot assess its consistency with state law. These substantive and procedural challenges indicate that Plaintiffs' chances of success on the merits are not substantial enough to grant an injunction, on this record, so the motion will be denied.

I.

A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). Plaintiffs seeking a preliminary injunction must demonstrate that they are likely to succeed on the merits, they are likely to suffer irreparable harm absent the injunction, the balance of equities favors them, and the injunction is in the public interest. *Stryker Emp. Co. v. Abbas*, 60 F.4th 372, 385 (6th Cir. 2023) (citing *Winter*, 555 U.S. at 20).

The last two factors merge when the government is the defendant. *Nken v. Holder*, 556 U.S. 418, 435 (2009). These are factors, not elements, though a slim enough chance of success on the merits is fatal on its own. *Gonzales v. Nat'l Bd. of Med. Exam'rs*, 225 F.3d 620, 625 (6th Cir. 2000).

II.

Plaintiffs fear they will not be able to continue their current food service because of a letter sent to Bonobo's counsel. The letter, authorized by Township Supervisor Maura Sanders and signed by Christopher Patterson, an attorney at Fahey Schultz Burzych Rhodes in Okemos, Michigan, was sent on November 21, 2025 to Joseph Infante, Plaintiffs' counsel. The letter begins by noting that "Peninsula Township (the 'Township') has been notified that [Bonobo] has advertised or hosted several events and activities that violate the Peninsula Township Noise Ordinance ('PTNO'), the Peninsula Township Zoning Ordinance ('PTZO'), and Bonobo's special use permit." (ECF No. 14-2 at PageID.147). It then warns that "[i]f voluntary compliance with Bonobo's SUPs is not achieved within 30 days, the Planning Commission may initiate a review of SUP #118 and, after a public hearing, the Township Board may revoke SUP #118 and its amendment." (*Id.*). The letter also says that "[w]ithin 30 days of its receipt of this letter, Bonobo must contact the Township and indicate whether it will voluntarily comply with SUP #118, as amended, and cease offering the above events." (*Id.* at PageID.148). The "above events" are listed on the previous page and are a mix of past and future events: a "Tuscan lunch" on August 23, 2025, an unspecified "private event" on September 5, 2025, a private event on September 20, 2025 "which caused severe noise disturbances," the "rental of winery facilities for holiday parties," the rental of "winery

facilities for events which will include food” prepared by a full service kitchen, and the rental of winery facilities “for rehearsal dinners and weddings for the 2026 wedding season.” (*Id.* at PageID.147).

The letter proceeds under three headings, with a fourth conclusory heading. Under the first heading, “Bonobo’s September 20, 2025, Event Violated the Peninsula Township Noise Ordinance,” the letter contains arguments to that effect. (*Id.* at PageID.148-49). Under the second heading, “Bonobo’s Identified Events Do Not Fall Within the Scope of its Prior Non-Conforming Use,” the letter contains conclusions about what uses are allowable “in the A-1 district or within the Former PTZO winery chateau provisions.” (*Id.* at PageID.150). Bonobo operates in the agricultural “A-1” district of Peninsula Township’s zoning ordinance, and before the present ordinance was in effect, was designated a “winery chateau” under previous ordinances, a designation which no longer exists. The section concludes that “[b]ecause facility rentals and full-service meals are absent from the listed uses in the A-1 district or within the Former PTZO winery chateau provisions, those uses are excluded and are not presently allowable.” (*Id.*). But it explains that “[i]f Bonobo wishes to use its property in a manner that is not explicitly allowable in the A-1 Agricultural district, it may request the Zoning Board of Appeals clarify whether the desired use is allowable. . . . At present, however, the rental of Bonobo’s facilities and the provision of full-service meals is not allowable within the A-1 district. . . . Bonobo must cease its engagement in these activities or risk revocation of SUP #118, as amended, or other similar action.” (*Id.*). The third heading, “Bonobo’s Events Also Violate SUP #118, as Amended,” details a theory that multiple

documented violations of the noise ordinance violate the conditions of Bonobo's special use permit, as do "events and the service of food." (*Id.* at PageID.151).

Bonobo's state licenses designate it as a Small Wine Maker and allow it to operate an On-Premises Tasting Room. It began "expanding its food offerings" after the Court issued its bench opinion in *WOMP v. Peninsula Township*, No. 1:20-cv-1008. (ECF No. 16-1 at PageID.221). Bonobo "fear[s] enforcement from the Township" if it continues to serve food. (*Id.*) Plaintiffs present affidavits from several other winery owners, stating that they serve food and fear enforcement because they became aware of the November letter sent to Bonobo. (*See, e.g.*, ECF No. 16-2 at PageID.224; 16-3 at PageID.227, 229, 231). Plaintiffs filed their initial complaint in this case five days after the November letter was sent, (ECF No. 1), and amended the complaint and filed the present motion for a preliminary injunction in February of this year, (ECF Nos. 14, 15). The Court held a hearing on the motion on April 23, 2026, in which Plaintiffs and Defendant offered witness testimony and oral argument.

Neither party in their briefing references a written ordinance explicitly prohibiting food service in the A-1 district. Plaintiffs' sole source for its descriptions of Defendant's "policy" on food is the November letter. At the hearing, Township Supervisor Sanders testified about the Township's position on whether certain kinds of food service are allowable in the A-1 district. She testified that, consistent with the letter, the service of meals from a "full-service kitchen" is not allowed, nor is the provision of "full-service meals." But the "service of food" is allowable. When pressed to break down the distinctions between these categories, she did not provide a consistent set of criteria to separate what is allowable and

what is not. She made reference to factors like “robustness” or whether the food is a “small plate,” but did not define those terms. When asked hypothetical questions about various kinds of food preparation or different potential customer orders, she answered that she did not know how the Township would handle those situations. When asked directly whether the Township had reached a final decision about whether Bonobo’s food service had crossed the line into the unallowable categories, she said it had not. Witnesses offered by both Plaintiffs and Defendant made clear in their testimony that no communication had occurred between Plaintiffs and the Township related to whether Bonobo’s food service was allowable after the November letter.

III.

A. Plaintiffs Are Unlikely to Succeed on the Merits.

Plaintiffs argue that the Township currently has a policy, that they fear will be enforced, preventing them from serving the food they wish to serve. They argue that this policy is preempted by state law because state law gives them unfettered discretion to operate any and all kinds of “restaurant” referred to in the Michigan Liquor Control Code, and local governments may not limit that discretion. Plaintiffs are unlikely to succeed on this claim because it is not yet clear what the Township’s policy on food is and because their absolutist claim to restaurant-choice impunity is inconsistent with state law.

1. Plaintiffs’ preemption claim is not yet ripe because there is insufficient clarity about what the Township does and does not allow.

The parties dispute whether Defendant’s position vis-à-vis food service is clear enough to establish a justiciable case or controversy. Ripeness is both a constitutional limitation

stemming from Article III’s limitation of the judicial power to cases and controversies and a prudential limitation on when courts exercise their power. *Grand v. City of Univ. Heights*, 159 F.4th 507, 511 (6th Cir. 2025). Courts consider “whether the claim is fit for judicial decision in that it arises out of a concrete factual context and an actual or likely dispute” and “whether withholding adjudication would do hardship to the parties.” *Id.*

In the land use context, there is a requirement for “finality,” which means “a concrete and final decision by the local authorities.” *Id.* This requirement “ensures that a plaintiff has actually ‘been injured by the Government’s action’ and is not prematurely suing over a hypothetical harm.” *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 479 (2021). When plaintiffs assert that “government regulation has gone too far, the court must first know how far the regulation goes.” *Id.* (citation modified). The finality requirement means only that the government is de facto “committed to a position” such that “potential ambiguities evaporate and the dispute is ripe for judicial resolution.” *Id.* But “until the government makes up its mind, a court will be hard pressed” to determine the legality of its actions. *Id.* at 475.

The Sixth Circuit explained in *Grand* that “land-use challenges are generally unripe until the relevant administrative agency resolves the appropriate application of the zoning ordinance to the property in dispute.” 159 F.4th at 512. This prevents courts “from swinging at a moving target” and applies “to a variety of constitutional and statutory challenges to land-use policy.” *Id.* In *Grand*, the plaintiff intended to host a prayer group at his residence, and the city sent him a cease-and-desist letter indicating that his residence was zoned in an area that prohibited use of the residence as a place of religious assembly. *Id.* at 510. The letter indicated that “[v]iolations of local ordinances” could result in “building code citations”

against the plaintiff. *Id.* The plaintiff requested a special use permit for his prayer meetings, and the city held a hearing; before a second planned hearing, the plaintiff withdrew his application. *Id.* He argued that the cease-and-desist letter was “a final decision.” *Id.* at 513. The court rejected that argument, explaining that “it misapprehends the finality requirement. To ripen his claims, [the plaintiff] needed a final decision from the agency with authority over the challenged regulations,” which was the local zoning board. *Id.* The letter could not indicate how the zoning board would apply the relevant ordinances, leaving the court “with no idea how the ordinance works in this setting.” *Id.* (citation modified).

Plaintiffs are hard-pressed to distinguish *Grand*, which explicitly held that a letter, even a letter alluding to potential devastating consequences, is insufficient to create finality if it does not actually say enforcement is imminent. Plaintiffs point to other factual distinctions between *Grand* and this case, but those distinctions are immaterial to the holding about the letter; Plaintiffs have nothing but the letter and their understanding of it, as testified to by Mr. Oosterhouse and Mr. Brys, to indicate that they fear enforcement of any kind. Plaintiffs argue that other cases Defendants cite pre-date *Pakdel*, which changed the finality analysis; *Grand* came after it and cites it. Plaintiffs did *less* than the plaintiff in *Grand* to reach finality: while the *Grand* plaintiff submitted a special use permit application and withdrew it after one hearing, Plaintiffs here did not put local officials on the record at all until the hearing on this motion in this Court. With the amount of process still left before there would be a “final decision from the agency,” *id.*, including a Planning Commission review, a hearing, and a Township Board vote, (ECF No. 14-2 at PageID.147), the letter cannot sufficiently indicate a final decision and thus create finality.

The testimony at the hearing does not change this conclusion. While Township Supervisor Sanders did testify that the Township's position is that the service of full-service meals is not allowable, she was unable to give meaningful definition or content to that position and testified that the Township had not reached a decision as to how that position would apply to Bonobo's activities. The core principle of finality is that courts "know how far the regulation goes." *Pakdel*, 594 U.S. at 479. While Plaintiffs have shown some intent to have a regulation, there is still very little clarity about what that regulation means or how it would apply to Plaintiffs' activities. Vague statements of principle are a far cry from the sort of commitment that makes "potential ambiguities evaporate" and the dispute "ripe for judicial resolution." *Id.* With so little clarity on what the Township's position *means*, it is not possible for the Court to assess whether its position goes so far in restricting Plaintiffs' activities as to contravene state law. It is not even yet clear if it restricts Plaintiffs' relevant activities *at all*.

Plaintiffs presented testimony from Mr. Oosterhouse, the owner and general manager of Bonobo, making reference to prior negative experiences with the Township. This testimony could theoretically support an argument that getting further clarification on the Township's position would have been futile. But futility "is not an exception to finality, it's another way to state the rule. A government's position is final when it has adopted a settled position or refused to answer a complaint." *Grand*, 159 F.4th at 513 (citation omitted). The Township had not yet taken a fixed position. If continued back-and-forth would have caused the Township to dig in its heels rather than engage in genuine dialogue, as Township

Supervisor Sanders testified was the Township's goal, that would still have more firmly fixed its position on the application of its policies and ripened the dispute. *See id.* at 513-14.

Plaintiffs argue for the first time in their reply brief that their preemption claim is a "facial challenge," thus obviating any finality analysis. (ECF No. 25 at PageID.329-30). A facial challenge to what? Plaintiffs do not cite any written ordinance that would serve as the face of the Township's position on food. They write that "[t]here are no circumstances in which Peninsula Township's complete ban on wineries operating restaurants comports with Michigan law." (*Id.* at PageID.330). But the evidence indicates the existence of no such policy, and the Township's position as stated in Sanders's testimony and the November letter indicate only a commitment to the amorphous idea that "full-service meals" are not allowed. Plaintiffs cite no caselaw involving facial challenges to unwritten rules with unclear content, instead citing cases involving facial challenges to *written* ordinances. *See, e.g., Tini Bikinis-Saginaw, LLC v. Saginaw Charter Twp.*, 836 F. Supp. 2d 504, 518 (E.D. Mich. 2011). Applying the principle from facial challenges to written policies here would undermine the purpose of the ripeness requirement, which is to ensure that courts "know how far the [challenged] regulation goes." *Pakdel*, 594 U.S. at 479. If the Court cannot determine what the content of the policy is, it cannot resolve the legality of its application to this case nor resolve its legality writ large. The Supreme Court has counseled against facial challenges requiring "premature interpretations" of policies in areas where their "application might be cloudy." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008). Interpreting an unwritten policy with content as unclear as this one would certainly be premature, making any attempt to apply it an exercise in speculation. If a facial challenge

were possible, it is not clear it would succeed. Facial challenges require the plaintiff to show there is no set of circumstances under which the challenged policy is valid. *Id.* at 449. The semantic void of the Township’s position on food makes it impossible to determine how exactly it may be limited, leaving open the possibility that it restricts only activities not expressly permitted under state law.

The considerable uncertainties here in what the Township means in stating its position, whether it would have taken any enforcement action, and what actions it would have based any enforcement on mean that Plaintiffs’ state law preemption claim is likely not yet ripe for judicial resolution. The Court cannot determine how far the Township’s regulation goes and thus cannot assess whether it goes so far as to contravene state law. The November letter and testimony from Ms. Sanders did not clarify the content of the policy sufficiently. There are certainly questions about vagueness and whether affected parties were put on notice of what activity is prohibited if the Township does move forward with any enforcement on the basis of the “policy” as currently formulated. But the basis of Plaintiffs’ request for an injunction here is the state law preemption claim, and the Court cannot adequately assess it. This suggests that Plaintiffs’ likelihood of success on the preemption claim is low.

2. Even if the Township’s policy were clear enough to evaluate, Plaintiffs’ absolutist position is contrary to Michigan law.

Plaintiffs argue that the position articulated in the November letter and by Township Supervisor Sanders in her hearing testimony—that wineries may serve food, but not “full-service meals,” whatever that means—is a local policy which is preempted by the Michigan

Liquor Control Code. Even if Plaintiffs were correct that this policy had sufficient definition to create a ripe controversy, it is not clear Plaintiffs would succeed. In Michigan, state law can preempt local ordinances, as the Court found in *WOMP*. See 1:20-cv-1008, Dkt. No. 162 at PageID.5987-88. “In the context of conflict preemption, a direct conflict exists when ‘the ordinance permits what the statute prohibits or the ordinance prohibits what the statute permits.’” *DeRuiter v. Township of Byron*, 949 N.W.2d 91, 96 (Mich. 2020) (quoting *People v. Llewellyn*, 257 N.W.2d 902, 904 n.4 (Mich. 1977)); see also *Walsh v. City of River Rouge*, 189 N.W.2d 318, 324 (Mich. 1971) (“Assuming the city may add to the conditions, nevertheless the ordinance attempts to prohibit what the statute permits. Both statute and ordinance cannot stand. Therefore, the ordinance is void.”). However, a local unit of government may add conditions to rights granted in a state statute because “additional regulation to that of a state law does not constitute a conflict therewith.” *Nat’l Amusement Co. v. Johnson*, 259 N.W. 342, 343 (Mich. 1935). But where a state statute allows certain conduct and a local ordinance forbids it, “the ordinance is void.” *Id.*

The statute on which Plaintiffs base their argument is a provision of the Michigan Liquor Control Code relating to tasting rooms. It provides that “wine maker[s] and “small wine maker[s],” among other licensed entities, “may own and operate a restaurant or allow another person to operate a restaurant as part of the on-premises tasting room on the manufacturing premises.” Mich. Comp. Laws § 436.1536(7)(h). The remainder of the provision specifies that if another person operates the restaurant, the wine maker “must hold a participation permit naming as a participant the other person” and the other person “must meet the requirements for a participant.” *Id.* Section 436.1536(7) is a list of

requirements with which “an approved tasting room . . . must comply,” including that the commission approve a permit, that the party operating the tasting room pay the permit fee, and that the operating party comply with server training requirements. *See id.* §§ 436.1536(7)(a)-(d).

The Michigan Liquor Control Code has a specific definition of “restaurant.” It defines a restaurant as “a food service establishment defined” under the Michigan Food Law. *Id.* § 436.1111(5). “Food service establishment” under the Food Law “means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public.” *Id.* § 289.1107(t). That definition is expansive and includes establishments where only beverages are served and no food, such as soda fountains, taverns, bars, and cocktail lounges. The residual clauses also envision other “food *or* drink” or “eating *or* drinking” establishments. The definition of “food” used in the Food Law includes beverages. *Id.* § 289.1107(m) (“‘Food’ means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.”).

Plaintiff’s position is that “under the Michigan Liquor Control Code, a licensed Small Wine Maker also holding a Retail or Extended Retail Food Establishment License, such as Bonobo, may operate a ‘restaurant,’ which means it may prepare food for the public’s direct

consumption on its property or elsewhere. . . . [A]ny ordinance or regulation which prohibits a winery from serving food or operating a restaurant is preempted.” (ECF No. 16 at PageID.214). This may be true, if the ordinances used the terms “food” and “restaurant” as they are defined in the Food Law, and barred the service of food and the operation of a restaurant. That would inescapably lead to the conclusion that the locality had prohibited what the state law permitted. But Plaintiff has not demonstrated the existence of a local policy that prohibits “restaurants” or the service of “food” as defined in the Food Law. Instead, they argue that Township will prevent wineries from providing “full-service meals.” (ECF No. 14-2 at PageID.150). What a “full-service meal” is, conceptually, is ill-defined, as discussed above. But Township Supervisor Sanders’s testimony made clear that it is not synonymous with all food, and “food service establishments” include providers of food that do not provide meal service as that term might be used in common parlance, such as concession stands and delis. Even assuming the policy prohibited all *solid* food, though, nothing is stopping Plaintiffs from serving *drinks*, which under the definitions in the Food Law and the Liquor Control Code, would still mean they are serving “food” and operating a “restaurant.”

Under the *common* definitions of those terms, rather than the statutory ones, Plaintiffs might have a stronger argument. “Food” is typically used to refer to solids intended for consumption as opposed to liquids, *see Food*, American Heritage Dictionary of the English Language (3d ed. 1996) (“Nourishment eaten in solid form: *food and drink*.”), and restaurants are “place[s] where meals are served to the public,” *Restaurant*, American Heritage Dictionary of the English Language (3d ed. 1996). But “when a statute specifically defines a given term, that definition alone controls,” not the plain meaning of the term. *Tryc*

v. Mich. Veterans' Facility, 545 N.W.2d 642, 646 (Mich. 1996). The Michigan Liquor Control Code defines “restaurant” with a specific reference to the Michigan Food Law’s definition of “food service establishment,” which includes establishments that do not serve solid food.

Because the alleged policy stops Plaintiffs from operating only *certain kinds* of “restaurants” rather than prohibiting any “restaurant” altogether, this case most resembles an additional local regulation rather than a locality prohibiting something the state permits. In *WOMP*, for example, the Court held that the Township’s regulation prohibiting alcohol sales after 9:30 PM was not preempted by a provision of the Michigan Liquor Control Code prohibiting sales only after 2:00 AM. *See* 1:20-1008, Dkt. No. 162, at PageID.5989. The Court explained that “because the Township Ordinances merely place a further limitation on a right granted under Michigan law, and because Winery-Chateaus can comply with both the hours limitations in the Township Ordinances and Michigan law at the same time,” the Township Ordinances were not preempted. *Id.* at PageID.5991. Here, the alleged policy restricts the operation of certain kinds of restaurants for wineries operating in the A-1 district. From the extensive menu of options in the Michigan Liquor Control Code, the Township removed some and left others. This is a constraint, not a full prohibition, and thus is not preempted.

To resist this conclusion, Plaintiffs advance the maximalist position that taking *anything* off the state-defined menu is preempted. As Plaintiff understands things, any locality that permits a winery with a tasting room in a given location would have to allow the operation of a “nightclub,” “theater,” or “industrial feeding establishment” there. Mich. Comp. Laws §

289.1107. It is not clear what limiting principle would prevent this result; when asked at oral argument if Plaintiffs thought they were entitled to operate a nightclub under their license, they indicated they were. This view of the law would effectively eliminate the category of “additional regulations” allowed to coexist with state permissions that the state courts have recognized. The Michigan Supreme Court rejected this maximalist position—that if state law permits a list of options, localities may not remove any options from that list—in *DeRuiter*. There, the court considered whether localities could place limitations on the location of marijuana growth beyond the requirement in state law that it be grown in an “enclosed, locked facility.” *DeRuiter*, 949 N.W.2d at 98. It found the localities could, because “the local regulation goes further in its regulation but not in a way that is counter to” the state law’s “conditional allowance on the medical use of marijuana.” *Id.* at 100. Here, Peninsula Township allegedly put limitations on the *kind of* restaurant Plaintiffs may operate in the A-1 zone while leaving options of other kinds of restaurant open. This is similar to the local restrictions in *DeRuiter*: state law permitted marijuana growth anywhere from the list of places that could meet the enclosed and locked requirements, and local law removed certain options from that list without removing all of them.

There could potentially be a line across which a local restriction removes so many options from the state-approved list that it contravenes the purpose of the state statute. Plaintiffs do not ask the Court to look for it, but the Court considers whether it might exist nonetheless. Frustrating any search for such a line is the sparse legislative history of § 436.1536(7)(h), making its purpose difficult to discern. Plaintiffs offer evidence that offering some kind of solid food with alcohol is generally a good idea, (*see, e.g.*, ECF No. 16

at PageID.218), which Defendant does not dispute, but Plaintiffs do not cite any sources to indicate that the legislature’s purpose was to promote that practice. Absent indicia of what the legislature actually intended to accomplish, rather than what it theoretically *could* have, it is not clear that Michigan courts would consider these arguments at all. *See People v. Kern*, 794 N.W.2d 362, 368 (Mich. 2010) (discussing valuable forms of legislative history for discerning legislative purpose such as evidence that the “enactment was intended to repudiate the judicial construction of a statute”); *In re Ramsey*, 581 N.W.2d 291, 293 (Mich. Ct. App. 1998) (“[N]othing will be read into a statute that is not within the manifest intent of the Legislature as gathered from the act itself.”). Complicating any theory along these lines further is the general principle that “no statute pursues any single purpose at all costs.” *Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 368 (2025). Even if Plaintiffs accurately identified the central animating purpose of the legislature in enacting § 436.1536(7)(h), it is not clear where the legislature would have drawn the line as to its preemptive effect.

For its part, Defendant is also not playing the line-drawing game very well. Its position—that the statute means Plaintiffs “*may* operate a restaurant *only if* this action complies with the Township ordinances”—appears to be maximalist on the opposite extreme. (ECF No. 21 at PageID.278). Defendant would have the Court hold that localities may remove any number of options from the state-approved list so long as the locality does not remove the theoretical capacity to do one. Defendant’s argument on these lines also rests on an error of law. Defendant repeatedly cites “MCL § 436.1003,” a statutory section that does not exist. There *is*, though, a section of the Michigan Administrative Code with that section number that contains the text Defendant cites. Mich. Admin. Code r. 436.1003 (“A licensee

shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcement officials who have jurisdiction over the licensee.”). This is helpful to Defendant’s position, as Michigan courts give “respectful consideration” to executive interpretations of statutes, *O’Halloran v. Secretary of State*, 29 N.W.3d 429, 444 (Mich. 2024), but that is short of deference, and certainly not the same as if that wording were actually in the statute, *In re Compl. of Rovas*, 754 N.W.2d 259, 270 (Mich. 2008) (“‘Respectful consideration’ is not equivalent to any normative understanding of ‘deference’ as the latter term is commonly used in appellate decisions.”). While the executive branch’s interpretation of the overall Michigan Liquor Control Code as leaving space for local regulation is helpful to Defendant, it does not move the ball much. The general principle does little to answer the specific questions of how much preemptive force § 436.1536(7)(h) has and when a constraint effectively becomes a local usurpation of state policy.

Ultimately, the statutory text and caselaw are unfavorable for Plaintiffs. The statute and cases suggest localities maintain the ability to regulate what kinds of restaurants wineries can operate in what zone. If Defendant does indeed have a policy prohibiting “full-service meals” in the A-1 district, and all wineries must be in the A-1 district, that still leaves enough options on the table for the kinds of statutorily-defined “restaurants” the wineries could operate. Plaintiff’s position is difficult to reconcile with the caselaw, as its argument threatens to eliminate the category of additional local regulation altogether. The Court need not resolve where the line is between additional regulation and overregulation to the point of effective prohibition, or if state law would draw such a line, as Plaintiffs stuck to their absolutist theory

without advancing any such backup theory. The Court also need not endorse Defendant's theory that the restaurant allowance § 436.1536(7)(h) is subject to complete control by local governments, as existing caselaw on additional regulation is sufficient to sustain the food-restriction policy to the extent it exists.

Plaintiffs do not have a substantial likelihood of success on the merits of their state law preemption claim. Defendant's position is so hazy as to what is and is not allowed that the dispute over whether state law preempts it is not ripe. In addition, even if the Court considered Defendant's position to be more fixed, it would merely limit the options available to Plaintiffs from the state-approved list. A smaller menu still leaves enough options on the table. Plaintiffs' absolutist theory that they must get every option without *any* restriction would require a radical break with existing caselaw on preemption. This is reason enough to deny the motion, *see Gonzales*, 225 F.3d at 625, but the Court will briefly turn to the other factors.

B. The Remaining Factors Do Not Conclusively Favor Plaintiffs.

The other factors to consider are whether Plaintiffs are likely to suffer irreparable harm absent the injunction and whether the injunction is in the public interest. But Plaintiffs' arguments relating to these factors hinge on their success on the merits, so the Court's skepticism of their likelihood of success applies to the other factors as well.

As to irreparable harm, Plaintiffs argue that being forced to comply with unlawful restrictions constitutes irreparable harm. (ECF No. 16 at PageID.216). But if the restrictions are not unlawful, this argument falls away. Plaintiffs also argue that they are losing customers and customer goodwill. (*Id.* at PageID.217). But they continue to serve food, as they reportedly have for years, based on the testimony from Mr. Oosterhouse and Mr. Brys. An

injunction would thus not be preventing an imminent harm but providing extra assurance behind a potential growth option.

As to the public interest, Plaintiffs argue that the alleged restrictions are illegal so they cannot be in the public interest. Again, if the restrictions are not illegal, this argument falls away. Plaintiffs also argue that serving food with alcohol is good because it slows down the rate at which customers become intoxicated. (ECF No. 16 at PageID.218). Defendant does not dispute this, and its position is that Plaintiffs may serve some food. Given the lack of clarity relating to what exactly Defendant might stop Plaintiffs from doing, the Court cannot conclude there is substantial evidence that Defendant's position is inhibiting this goal. Defendant also argues that allowing all parties with a liquor license to operate a restaurant would have effects on the broader community such as noise and traffic. (ECF No. 21 at PageID.281). These policy considerations are more amenable to resolution by political entities rather than the Court. The most persuasive arguments here relate to whether the Township is attempting to enforce lawful or unlawful policies, which ties this factor to the resolution of the likelihood of success on the merits.

IV.

The November letter which set this case in motion contained insufficient detail to fix the Township's position on what was and was not allowed, indicating that the Township was concerned about "full-service meals" but failing to specify what that concept refers to. That uncertainty remained up to and through the Court's hearing on this motion. Without any substantive sense of what the Township's policy is or whether it applies to Plaintiffs' current or planned operations, the Court cannot assess whether the policy complies with state law.

This lack of definition could present other issues should the Township move forward to enforce the “policy,” such as it is, including Due Process and vagueness concerns. But as it relates to the present motion, the uncertainty only means that the state law preemption dispute is not ripe for judicial resolution. Additionally, Plaintiffs relied on an absolutist vision of state law inconsistent with the state courts’ view of how state statutes interact with local governments. Even if the Township’s policies were more well-defined, Plaintiffs’ broad-reaching request would be unsupported. Plaintiffs’ motion (ECF No. 15) is thus **DENIED**.

IT IS SO ORDERED.

Date: April 28, 2026

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge