

HOUSE BILL No. 6394

September 3, 2008, Introduced by Reps. Elsenheimer and Walker and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 2006 PA 110, entitled "Michigan zoning enabling act," (MCL 125.3101 to 125.3702) by adding section 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 409. (1) A PUBLIC OFFICIAL OR ANY OTHER INDIVIDUAL MAY
2 RECOVER EITHER TREBLE DAMAGES, COSTS OF THE ACTION, AND REASONABLE
3 ATTORNEY FEES, OR THE SUM OF \$5,000.00, WHICHEVER IS GREATER, IF
4 ALL OF THE FOLLOWING CONDITIONS ARE MET:

5 (A) THE INDIVIDUAL IS A DEFENDANT IN A CIVIL ACTION ARISING
6 FROM THAT INDIVIDUAL'S COMMUNICATION WITH A LOCAL UNIT OF
7 GOVERNMENT, A PUBLIC OFFICIAL, OR OTHER PERSON.

8 (B) THE COMMUNICATION UNDER SUBDIVISION (A) WAS IN FURTHERANCE
9 OF THAT INDIVIDUAL'S CONSTITUTIONAL RIGHT TO PETITION AND OTHERWISE

1 PARTICIPATE IN THE PROCESS OF GOVERNMENT OR, IF APPLICABLE, IN
2 FURTHERANCE OF THE EXERCISE OF HIS OR HER POWERS OR DUTIES AS A
3 PUBLIC OFFICIAL.

4 (C) THE COMMUNICATION UNDER SUBDIVISION (A) WAS INTENDED TO
5 INFLUENCE GOVERNMENTAL OR ELECTORAL ACTION UNDER THIS ACT OR AN
6 ORDINANCE ADOPTED UNDER THIS ACT.

7 (D) THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT
8 THE CIVIL ACTION WAS INITIATED WITH THE PRIMARY PURPOSE OF
9 HARASSING OR INTIMIDATING THE INDIVIDUAL OR OTHERWISE HINDERING
10 THAT INDIVIDUAL'S PARTICIPATION IN THE PROCESS OF GOVERNMENT.

11 (2) SUBSECTION (1) DOES NOT IMPAIR ANY RIGHTS OF THE DEFENDANT
12 UNDER COMMON OR STATUTORY LAW OR COURT RULE.

13 (3) AS USED IN THIS SECTION:

14 (A) "COMMUNICATION" MEANS AN ORAL STATEMENT, WRITING,
15 ELECTRONIC TRANSMISSION, PHOTOGRAPH, DEPICTION, PEACEFUL
16 DEMONSTRATION, OR OTHER EXPRESSION.

17 (B) "PUBLIC OFFICIAL" MEANS ANY OF THE FOLLOWING:

18 (i) AN INDIVIDUAL WHO IS ELECTED OR APPOINTED TO A PUBLIC
19 OFFICE OF A LOCAL UNIT OF GOVERNMENT.

20 (ii) A MEMBER OF A ZONING COMMISSION, OF A ZONING BOARD OR
21 PLANNING COMMISSION EXERCISING THE POWERS AND DUTIES OF A ZONING
22 COMMISSION UNDER SECTION 301, OR OF A ZONING BOARD OF APPEALS.

23 (iii) AN OFFICIAL DESIGNATED IN THE ZONING ORDINANCE TO
24 ADMINISTER AND ENFORCE THE ZONING ORDINANCE.