

STATE OF MICHIGAN
COURT OF CLAIMS

FIRST CLASS, INC.,

Plaintiff,

v

Case No. 18-000229-MB

STATE OF MICHIGAN and DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS,

Hon. Stephen L. Borrello

Defendants.

**ORDER GRANTING TEMPORARY RESTRAINING ORDER AND ORDER TO
SHOW CAUSE**

Pending before this Court is plaintiff's motion for temporary restraining order to enjoin and restrain defendants from enforcing the October 31, 2018 deadline contained in the October 1, 2018 Emergency Rules promulgated by defendant Department of Licensing and Regulatory Affairs. The Court, having reviewed the pleadings, finds that at this juncture in the proceedings, plaintiff has made the requisite showing of a likelihood of success on the merits with respect to whether the shortening of the deadline from December 15, 2018, to October 31, 2018, for temporary operating applicants such as plaintiff to cease operations was arbitrary and capricious. See *Mich Farm Bureau v Dep't of Environmental Quality*, 292 Mich App 106, 141-142; 807 NW2d 866 (2011); *Thermatool Corp v Borzym*, 227 Mich App 366, 376; 575 NW2d 334 (1998). In addition, the Court finds that, at this juncture of the proceedings, that plaintiff has, based on allegations that it would be forced to cease all business operations and could potentially be exposed to criminal liability, made the requisite showing of irreparable harm. See MCR 3.310(B)(1). In addition, the Court concludes that the balance of harm and the public interest weighs in favor of the issuance of temporary relief. See *Thermatool Corp*, 227 Mich App at 376.

IT IS HEREBY ORDERED that defendants are enjoined and restrained from enforcing the October 31, 2018 deadline contained in the October 1, 2018 Emergency Rules.

IT IS HEREBY FURTHER ORDERED that defendants are enjoined and restrained from imposing any other deadline requiring the cessation of operations by facilities such as plaintiff currently operating under temporary operating authority until further order of this Court.

IT IS HEREBY FURTHER ORDERED that defendants shall appear and show cause as to why a preliminary injunction should not issue at a hearing to be held on Friday November 9, at 1:00 p.m., in the Courtroom of the Michigan Court of Appeals, located on the second floor of the Michigan Hall of Justice, 925 West Ottawa Street, Lansing, Michigan. See MCR 3.310(A).

Date: October 30, 2018



Stephen L. Borrello
Judge, Court of Claims