Exclusionary Zoning and the Saline Data Center: An Object Lesson

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A hyperscale A.I. data center is under construction in Saline Township Michigan on eight parcels of land which have long been zoned Agricultural ("A-1"). Valued at over $16 billion and covering 250 acres, the data center would be the largest in Michigan, at 1.4 gigawatts. It would consume more electricity than a million homes.

The developer is Related Digital, in partnership with Oracle, OpenAI, and Blackstone.[1]

Saline Township is near Ann Arbor. On the northeast corner it borders the City of Saline. US12 runs through it.

The concept for data center first appeared last July 10, 2025, when Related Digital asked Saline Township to rezone the company's "A-1" parcels (which sum to 575 acres) into a district called "I-1." Part of its proposal was a $2 million contribution to the Township for fire/emergency protection plus $1 million for "community investment."

The Township refused. Two days later on September 12, Related sued under the name of its recent affiliate "RD Michigan Property Owner 1 LLC." Township attorneys

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1 "Related Digital closes in on $16bn financing for Oracle data center in Michigan - report, Likely for Oracle's Stargate development in Saline Township, Michigan," *https://www.datacenterdynamics.com/en/news/related-digital-closes-in-on-16bn-financing-for-oracle-data-center-in-michigan-report/* ; "Massive data center in Saline Township secures financing through Blackstone," *https://www.mlive.com/news/ann-arbor/2026/04/massive-data-center-in-saline-township-secures-funding-through-blackstone.html*

quickly capitulated when Related agreed to even more millions. The attorneys presented the terms of a proposed Judgment only partially to the Township Board – omitting important terms including that the Judgment displaced provisions of the Zoning Ordinance on Related's parcels – before they approved it. Without a hearing, a Washtenaw County judge signed a Consent Judgment on October 15.

Local opponents of the data center, led by Kathryn Elizabeth Haushalter, challenged the project in the Washtenaw Circuit Court using the zoning laws. Robby Dube of Minneapolis and I represent them. The Court denied relief.[2] Among other errors, the Court found several critical false facts, and failed to appreciate that parties cannot contract away legislative powers.[3] We are appealing.[4]

On December 22 Related's attorney Alan Greene threatened an "enormous" damage claim against Haushalter, her allies, and counsel, akin to the fate of Laocoön, should our efforts result in project delays.

> "**I fear the Greeks, even bearing gifts**."
> – Laocoön, Trojan priest quoted in Virgil's *Aeneid*, on seeing the giant wooden horse left as an offering outside the walls of Troy by the Greek army, which had pretended to sail away after a 10-year siege. The gods tortured and slew Laocoön and his sons on the spot. Trojan citizens brought the horse inside. At night Greek warriors hidden in the horse came out and opened the city gates. The Greek army had returned. They entered and destroyed the city. A famed 1st-century marble of the horrible end of Laocoön and his family is at the Vatican Museums.

2 *https://mitechnews.com/featured/billion-openai-data-center-clears-major-legal-hurdle-in-saline/* .

3 I*nverness Mobile Home Community v Bedford Township*, 263 Mich App 241 (2004); *Osius v St Clair Shores,* 344 Mich 693 (1956).

4 Court of Appeals Case # 380388.

A separate issue brought by Haushalter and others, invoking the authority of the Township's Zoning Board of Appeals – a separate entity from the Township itself[5] which did not sign on to the Consent Judgment – is yet to be decided.

Township attorneys have explained the reason they surrendered so quickly was they believed Related would win the suit. The suit was based on the company's claim that the Township had enacted illegal "exclusionary zoning."

The court never ruled on that claim, because of the Consent Judgment.

This paper takes no position on the environmental, power-usage, or AI-related issues which animate public discussion of data centers.

The purpose rather is to explain the concept of exclusionary zoning, and how Saline Township could have defeated Related's claim at the outset had it chosen to litigate, and done so without need for expert testimony. Other townships, faced with a threat of a hyperscale data center, depending on the wording of their Zoning Ordinances are invited to do the same.

I have circulated drafts and the May 7 release of this paper to about 30 people, including academics and pro-developer zoning specialists, and received just one feedback which was partly negative even as it was respectful and admiring.

Exclusionary Zoning and the Michigan Zoning Enabling Act (MZEA)

"The zoning of land is an exercise of a government's police power."[6]

5 *Osius v St Clair Shores,* 344 Mich 693 (1956); cf MCR 7.122(C)(1).
6 *Hendee v Putnam Township*, 486 Mich 556 (2010).

There are two potential ways for a developer to make a claim of exclusionary zoning about data centers. The usual way is to use the MZEA (which seems to have subsumed previous common law notions[7]).

In the United States zoning has been around for 100 years.[8] In Michigan, the first statewide zoning enabling act, the since-replaced City and Village Zoning Act,[9] was passed in 1921.

Zoning (including adoption of a Master Plan) constitutes a legislative function; a court does not sit as a superzoning commission; an ordinance is not unreasonable just because a prohibited land use is more profitable than the land uses allowed by the zoning ordinance.[10] Historians also know:

> Exclusionary zoning was introduced in the early 1900s, typically to prevent racial and ethnic minorities from moving into middle- and upper-class neighborhoods. . . . However, the noted urban planner Yale Rabin observed, "What began as a means of improving the blighted physical environment in which people lived and worked" became "a mechanism for protecting property values and excluding the undesirables." . . . Many early regulations directly barred racial and ethnic minorities from community residence until explicit racial zoning was declared unconstitutional in 1917. Less explicitly ethnic but still exclusionary ordinances continued to gain popularity throughout the country.[11]

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7 Compare *Kropf v City of Sterling Heights*, 391 Mich 139 (1974) and *Kirk v Tyrone*, 398 Mich 429, 439 (1976) with *Adams Outdoor Advertising v City of East Lansing*, 439 Mich 209, 215-216 (1992) and *Landon Holdings v Grattan Township*, 257 Mich App 154 (2003).

8 Kiningham, Sehrsweeney, Borum, "Permissibility of Unlisted Zoning Uses Report," *https://closup.umich.edu/sites/closup/files/2024-03/closup-wp-60-Permissability-of-Unlisted-Zoning-Uses-Report.pdf*

9 MCL 125.581 et seq.

10 *Kyser v Kasson Township*, 486 Mich 514 (2010); see also I*nverness Mobile Home Community v Bedford Township*, 263 Mich App 241 (2004).

11 *https://en.wikipedia.org/wiki/Exclusionary_zoning* (footnotes omitted).

"Exclusionary zoning" actually is not a term found in the MZEA. What it does have is MCL 125.3207 (formally codified as MCL 125.297a in nearly identical language in 1943[12]).

> A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.[13]

To sustain a claim that a city engaged in unlawful exclusionary zoning, a developer must show that

> (1) the challenged ordinance section has the effect of totally prohibiting the establishment of the land use sought within the city or village, (2) there is a demonstrated need for the land use within either the city or village or the surrounding area, (3) a location exists within the city or village where the use would be appropriate, and (4) the use would be lawful, otherwise.[14]

Related's July 10 Application – styled at the top as an Application for "conditional rezoning" – defined data centers only generally, saying they "have large footprints." But this is not necessarily so. Data centers come in all shapes and sizes.[15] Some are "as small as a closet."[16] Vertiv Holdings Company, a world-wide Ohio

12 Quoted in Henderson *v Putnam Township*, 486 Mich 556, n 25 (2010) (emphasis added).
13 Emphasis added.
14 *Adams Outdoor Advertising v City of Holland*, 463 Mich 675 (2001) emphasis added)
15 *https://en.wikipedia.org/wiki/Data_center#History*
16 Mills, Wikinson, "What Michigan Local Governments Should Know About Data Centers," Graham Sustainability Institute Center for Empowering Communities, page 3, February 2026, https://graham.umich.edu/product/michigan-data-centers-guide .

company with thousands of employees, offers closet-sized data centers.[17] If Related or some other company were to set up an office building in a Commercial zone in Saline Township there can be no doubt that it could have put a data center in one of the closets, without the Township even being told.

The July 10 Application included an important detail, that the project would occupy more[18] than 30% of Related's aggregate parcels. This would violate a dimensional requirement of the Township Ordinance for I-1 parcels, the type Related was seeking.[19]

Public consciousness about data centers arose only in recent years, when they went "hyperscale," as the Saline Center would be, in that it would cover 250 acres.

Longstanding precedent in Michigan holds:

> A key aspect of Euclidean zoning is that if a principal use is <u>not expressly</u> permitted in a zoning district, it is <u>prohibited</u>.[20]

In so holding, Michigan joins 23 other states.[21]

The term "Euclidean zoning" arises from a landmark decision of the US Supreme

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17 "What is a Micro Data Center?" *https://www.vertiv.com/en-emea/about/news-and-insights/articles/educational-articles/what-is-a-micro-data-center/*

18 250 / 575 acres = 43½%.

19 ZO § 3.101.

20 *Independence Township v Skibowski*, 136 Mich App 178 (1984) (emphasis added); *Jostock v Mayfield Township*, 513 Mich 360 (2024); *Pittsfield Twp v Malcolm*, 375 Mich. 135, 142 (1965).

21 Kiningham, Sehrsweeney, Borum, "Permissibility of Unlisted Zoning Uses Report," *https://closup.umich.edu/sites/closup/files/2024-03/closup-wp-60-Permissability-of-Unlisted-Zoning-Uses-Report.pdf*

Court 100 years ago, *Village of Euclid v Ambler Realty Co*.[22] Generally summarized here,[23] the case involved a realty company that owned land in Euclid Ohio, a Cleveland suburb. To prevent growth of industry and the city subsuming the village, Euclid developed a zoning ordinance based on classes of property, segregated one from another, pertaining to use, height, and area. The company's property was divided into classes which, the company contended, hindered it from developing the land for industry. It sued, claiming the ordinance reduced the value of the land. Rejecting the suit, the Supreme Court held the Village ordinance had a rational basis and was enacted for the public welfare. Taking as one example the issue of segregation by zoning of apartment houses from residential areas, *Euclid* noted:

> Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities – until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed.[24]

Michigan has endorsed the *Euclid* approach.[25]

The Saline Ordinance itself says what the above case law (*Skibowski* et al) says,

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22 272 US 365 (1926).
23 https://en.wikipedia.org/wiki/Village_of_Euclid_v._Ambler_Realty_Co
24 272 US at 394.
25 *Austin v Older,* 283 Mich 667 (1938); *Hendee v Putnam Township*, 486 Mich 556 (2010).

that if a use is not expressly permitted it is prohibited.[26] The Ordinance does not list data centers as a potential use. And there is no provision for a developer to request the Township Planning Commission to change an unlisted use to listed. Such a request could be made only to the Township Board for an amendment to the Ordinance itself, including a public hearing, followed by publication in a general newspaper, and potentially a citizen referendum.

A request for an Ordinance amendment would have to have included a definition of "Data Center" – including the kind which would fit in a closet – and establishment of a new use to accommodate and regulate data centers.

Alternatively, the Township could have chosen to define and regulate only hyperscale data centers.

Contrary to MZEA Section 3207, which emphasizes a "need" in the local area:

> Generally, the digital services enabled by hyperscale data centers benefit a national or multi-region customer base rather than just the community or business property where the facility is located.[27]

Further, the developer has the burden to demonstrate there is a "need" in the local area, and that it is a "public" need.[28]

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26 ZO § 2.202.

27 Mills, Wikinson, "What Michigan Local Governments Should Know About Data Centers," Graham Sustainability Institute Center for Empowering Communities, page 3, February 2026, *https://graham.umich.edu/product/michigan-data-centers-guide*

28 *Adams Outdoor Advertising v City of Holland*, 463 Mich 675 (2001); *Outdoor Systems v Oakland Circuit Court Clawson*, 262 Mich App 716 (2004); *Gustafson v City of Lake Angelus*, 76 F3d 778 (6th Cir 1996).

In a webinar presentation of February 18 the Michigan Townships Association struggled to explain "demonstrated need in the township or surrounding area," seeming even to suggest "need" could be demonstrated by fiat of a state or federal leader:

> EXCLUSIONARY ZONING
> - Can I just ban them entirely?
> - MCL 125.3207 [statute described in short form]
> - Is there 'demonstrated need?'
> - "See Trump and Whitmer's statements."
> - Suitable location?[29]

Of course this is not so. State and national officials like Trump and Whitmer do not have power to determine local needs,. Only the township leadership, guided by the Master Plan and the residents would have power.

Hyperscale data centers do not answer to "needs" documented in Saline Township or even in Washtenaw County. They answer to a national or international market. So Section 3207 just does not apply to them. In 2010 an insightful decision of the Michigan Court of Appeals added:

> Presumably any entrepreneur seeking to use land for a particular purpose does so because of its perception that a demand exists for that use. To equate such a self-serving demand analysis with the "demonstrated need" required by MCL 125.3207 would render that language mere surplusage or nugatory, in contravention of usual principles of construction. . . . There must exist a public need for a particular land use, not merely a public demand for it. . . . Furthermore, MCL 125.3207 explicitly requires a lack of demonstrated need in the township and in the surrounding geographical area.[30]

29 Robert E. Thall, MTA Slidedeck, February 18, page 11; see also Theresa Duckett, "Zoning it Out? – Applying Michigan's Statutory Exclusionary Zoning Provision," *https://fsbrlaw.com/2023/10/31/zoning-it-out-applying-michigans-statutory-exclusionary-zoning-provision/*

30 *DF Land Dev LLC v Charter Twp Of Ann Arbor*, COA Case # 291362; see also

Given the wording of 3207, instead of collapsing to Related's lawsuit, the Township could have fended off the company at the outset.

Moreover, as noted above, Related's Application styled itself as one for "conditional rezoning," a type which MZEA would allow if the Township Ordinance did. Except, Saline's Ordinance does not.[31] And even if it did, the condition could not allow a use which the Zoning Ordinance does not otherwise permit.[32]

Nor did Related request an Ordinance amendment to allow for conditional zoning.

Nor did the July 10 Application ask that the above prohibition of conditional zoning be discarded.

Nor did it ask that the 30% dimensional requirement for I-1 be changed.

For an example where the Court found exclusionary zoning had in fact occurred, see *English v Augusta Township:*[33] The township prohibited a manufactured housing park (MHP) on the plaintiff's lot. There was no other MHP development in the township, though the Township did have a parcel zoned for that use. But the Court noted evidence – most of the parcel was owned by the supervisor with no intent to develop an MHP – that zoning of that parcel was a "subterfuge" for the township's "unwritten" policy of excluding mobile-home parks altogether.

Int'l Outdoor v City of Livonia, COA # 325243, (2016),unpublished ("However plaintiff has failed to demonstrate that there is a *public need* for billboards *within defendant [Township]'s boundaries.*" (emphasis in original))

31 ZO § 12.04(A).

32 *Jostock v Mayfield Township*, 513 Mich 360 (2024).

33 204 Mich App 33 (1994).

Related does not contend any "subterfuge" was at work in the Township zoning decisions.

Exclusionary zoning and the Michigan Constitution's equal-protection clause

Issues of exclusionary zoning in Michigan have been argued traditionally on the basis of the MZEA and its 1943 predecessor the Township Zoning Act.[34] But Related has added a creative twist, based on Michigan's 1963 Constitution.

Article 1 Section 2 of that Constitution says:

> No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation. [Emphasis added.]

Note the first sentence has two clauses, and both use the term "person" to describe victims of un-equal protection.

(Parenthetically, the company did not cite or rely on "equal protection" as stated in the US Constitution's 14th Amendment. In a series of decisions dating to 1886 the US US Supreme Court has recognized corporations as "persons" for purposes of equal protection in the 14th Amendment.[35] One of the decisions, *Santa Clara v Southern Pacific Railroad,* is subject to mocking academic criticism, given that a headnote

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34 MCL 125.271 et seq.

35 *Yick Wo v Hopkins*, 118 US 356 (1886), *Santa Clara v Southern Pacific Railroad,* 118 US 394 (1886); *Citizens United v. Federal Election Commission*, 558 US 310 (2010).

purporting to summarize it – written by a clerk – stated scandalously that the Court itself believed the Equal Protection Clause granted constitutional protections to corporations, though the decision itself did not say that.[36] Even so, the decision and headnote have long been cited for just that proposition.[37])

The second clause of the first sentence of Michigan's Article 1 Section 2 refers to the reasons for which a person may not be victimized: "religion, race, color, or national origin." Those characteristics are inherent only in natural humans. A corporation has no religion, race, color, or national origin. Therefore corporations are not among the "persons" protected by the second clause of the first sentence.

What about the first clause? It also provides for equal protection for "persons" but does not restrict the reasons to "religion, race, color, or national origin."

Use of the same word twice in the same statute occasioned the US Supreme Court once to note:

> A standard principle of statutory construction provides that identical words and phrases within the same statute should normally be given the same meaning.[38]

It would seem to follow then that the "persons" protected by the first clause, like those covered by the second clause, do not include corporations.

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36 *Connecticut General Life Insurance Company v Johnson* 303 U.S. 77, 87 (1938), (Black, J. dissenting): Douglas, William O. "Stare Decisis." *Columbia Law Review*, vol. 49, no. 6, 1949, accessible at *https://www.scribd.com/document/375986796/W-O-Douglas-Stare-Decisis* .

37 *https://en.wikipedia.org/wiki/Santa_Clara_County_v._Southern_Pacific_Railroad_Co.#Headnote*

38 *Powerex Corp v Reliant Energy Services*, 551 US 224 (2007).

A search of the proceedings and delegate debates of Michigan's 1961-62 Constitutional Convention might answer just how the Delegates felt about potential protection for corporations under Article 1 Section 2, if they even discussed it at all when approving the 1963 Constitution. The Delegates may have had no knowledge of US Supreme Court decisions from 1886. Anyway the 1886 decisions were not binding for purposes of Michigan law and the Delegates may have disagreed with them.

Article 1 Section 2 is part of the "Declaration of Rights" Article in the Constitution, when it was finalized in 1963. The Convention had a committee to discuss and debate each of the proposed articles, including the "Declaration of Rights." But transcripts of committee proceedings, if they exist, have not been published.[39]

Article 1 Section 2 was new in 1963. The previous Constitution, enacted in 1908, had a similar "Declaration of Rights" Article, but it did not include Equal Protection.[40]

Hundreds of pages of transcripts were made of the floor proceedings of the 1961-62 Convention, and are available online, but I have not found time to review those pages one by one. Perhaps I will find time in the future, or someone else might.

The following assumes for now that nothing was said at the Convention on the subject of corporate access to equal protection under Article 1 Section 2.

Even so, contrary to the rule that the same word used twice in a statute is presumed to have the same meaning, Michigan courts indeed have twice adjudicated

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39 According to staff at Citizens Research Council of Michigan, *http://crcmich.org* .

40 *https://www.legislature.mi.gov/documents/historical/miconstitution1908.htm*

equal-protection claims brought by corporations under Article 1 Section 2.

But on the merits the corporation in *Dan & Jan Clark LLC v Orion Township.*[41] lost. The corporation was "not a member of a protected class," the decision held, citing for the meaning of a "protected class" an earlier decision:

> However, unless the dissimilar treatment alleged impinges on the exercise of a fundamental right or targets such protected classifications as those based on race or gender, the challenged regulatory scheme will survive equal protection analysis if it is rationally related to a legitimate governmental interest. . . . In such cases, the party raising the equal protection challenge has the burden of proving that the challenged law is arbitrary and thus irrational.[42]

See also *Blue Cross and Blue Shield of Michigan v Milliken,*[43] to the same effect.

The one successful equal-protection exclusionary-zoning decision cited by Related's Court Complaint under Article 1 Section 2, *Smookler v Whitefield*,[44] was brought by two natural humans, not a corporation. It did not invoke the MZEA, and did not purport to construe "equal protection" as stated in the federal 14th Amendment. The *Smookler* Plaintiffs wanted a zoning change from agricultural to mobile-home park. The Plaintiffs had the burden of proof, the Court said, and they carried it by showing that no land in the Township actually was zoned for mobile home parks.

Accordingly the Court held the ordinance "facially" exclusionary as to them, there was no need to examine the "reasonableness" of the ordinance or whether it was "rationally related to a legitimate governmental interest." The two Plaintiffs were free to

41 COA Case # 284238 (2009).
42 *Dowerk v Oxford Township*, 233 Mich App 62 (1998) (emphasis added).
43 422 Mich 1 (1985).
44 394 Mich 574 (1974).

establish a mobile-home park on the property.

But see *Countrywalk Condominiums v City of Orchard Lake Village*[45] (on a showing by a developer that an ordinance totally excludes a legitimate use, the municipality has the Constitutional burden to show evidence of a reasonable relationship to the health, safety, or general welfare of the community, and if the municipality provides it, the burden falls back upon the developer to discredit the evidence, which it did not carry in that case).

Commenting on the *Countrywalk* decision, Michigan's Institute of Continuing Legal Education ("ICLE") observed in a 2016 update of its comprehensive zoning treatise:

> Zoning is, by its nature, an inflexible process. . . . Note that every municipality is not required to provide land for every conceivable land use within its geographical boundaries.[46]

I have not chanced to see ICLE updates since 2016. But from a review of the case law since then, it is unlikely ICLE has changed its above views.

Specifics of Related's Complaint against Saline Township

Would or could the Saline data center be held a nuisance under Michigan law? Possibly, but Haushalter has not alleged facts for a nuisance claim.

Further, as will be seen below, it is likely that no developer of a hyperscale data center anywhere in the state would be able to establish an exclusionary claim.

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45 221 Mich App 19 (1997).

46 "Michigan Zoning, Planning, and Land Use,"January 2016 update, pp 247, 291.

The Saline Township Zoning Ordinance can be downloaded here.[47] (It is also viewable in the office of the Township Clerk,[48])

The Master Plan can be downloaded here.[49]

The Ordinance divides the Township into several zones (= districts). Article IV lists zoning districts and the uses permitted in each. Three of the districts are:

Agricultural-Conservation (A-1)
Local Commercial (C-1)
Industrial-Research (I-1)

In A-1, "Research and Development Facilities and Testing Laboratories" are permitted as a special use.[50] Nearly every Township parcel – including all parcels abutting Related's eight parcels – is zoned as A-1. (Separately, A-1 allows regulated gravel extraction provided the parcel is reclaimed for other A-1 use when the extraction plays out. Extraction is not viewed as "industrial."[51])

In C-1, "big box commercial" with total gross "floor" area of "more than 50,000 square feet" is permitted as a special use.[52] There appear to be four C-1 parcels in the Township. All are of small size, sited along the same road, US 12, toward the city of Saline from where the Related project would be. Any big box commercial facility would likely have its own data center in a closet onsite, to keep track of customers and

47 *https://salinetownship.org/go.php?id=736&table=page_uploads*
48 ZO § 2.102 .
49 *https://salinetownship.org/go.php?id=600&table=page_uploads*
50 ZO §§ 4.02 (table).
51 ZO §§ 4.02 (table), 5.604.
52 ZO §§ 4.02 (table), 5.403.

available inventory.

As to I-1, as in *Smookler*, no Township parcel is zoned I-1.

Related's 8 contiguous parcels, summing to 575 acres, are along the western border of the Township, next to Bridgewater Township (where Related has further contiguous acres). All are zoned A-1.

Related's suit of September 10 alleged in the final ("wherefore") clause that the Township's "refusal to rezone the property" from A-1 to I-1constituted "exclusionary zoning," and denied it "any reasonable and/or economically viable use" of its 8 parcels.[53]

The Claim under the Michigan Constitution has problems even despite *Smookler:*

* Related had no standing to argue the Township's "refusal to rezone" deprived it of anything, since its proposed project violated the 30% dimensional requirement in I-1 districts,[54] and as noted above conditional rezoning to accommodate the project (which is what Related requested on July 10) is prohibited.[55]

* Related remains free today to continue agricultural use of its parcels, as has been done there for generations. Accordingly, existing zoning did not "totally" deny reasonable or economically viable use.

* Related's Complaint does not contend that the Ordinance isn't rationally related to a legitimate governmental interest.

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53 Washtenaw County Circuit Case # 25-001577-CZ.
54 *Hendee v Putnam Township*, 486 Mich 556 (2010).
55 ZO § 12.04(A).

* The Complaint asserted[56] there are no data centers in the Township, and further: (1) the Township "has a zoning classification that would permit such a development (the 'I-1' zoning)" and (2) "no property has been zoned anywhere in the Township for I-1 uses."

But proposition (2) is not true. A-1 does allow industrial, research, laboratory, and testing by special use so long as they are accessory/incidental to a principal rural use.[57] Ordinarily, data centers are not restricted to rural uses. But nothing would prevent one – even a large one – from being placed in A-1 if its design were restricted to industrial, research, laboratory, and testing, all incidental to "rural." This would be so even if the principally-rural-use parcels were elsewhere in the state, outside the Township. There could be thousands of those. So it cannot be said that data centers are "totally" prohibited in the Township.[58]

As to proposition (1), that under I-1 its project would be permissible, that is not so, as noted, because of the 30% dimensional issue. Theoretically Related could have sought a dimensional variance from the Township Zoning Board of Appeals. But that would have involved a separate time-consuming process, and required proof of impossible facts such as that its need for the variance was not self-created.[59]

* But even setting definitional issues aside, Proposition (1) is puzzling. The

56 Complaint ¶¶ 63, 64.
57 ZO §§ 4.02 (table), 5.501.
58 *Kropf v City of Sterling Heights*, 391 Mich 139 (1974); *Houdek v Centerville Township*, 276 Mich App 568 (2007).
59 ZO § 17.07.

company's July 10 Application asked that the Township rezone its parcels to I-1. It asserted that data centers are so new that they were "not specifically considered or addressed in Saline Township's Master Plan or Zoning Ordinance," there is "no zoning classification of property or Master Plan discussion in the Township or any surrounding or nearby community that specifically addresses" data centers, and they are used "by all people and businesses throughout the country."[60]

Haushalter agrees that data centers are a new kind of animal which officials in the Township had never heard of when they enacted the Ordinance in 2008 and Master Plan in 2016. But recall the above teaching of *Skibowski, Jostock,* and *Pittsfield Township* about Euclidean zoning, that if a principal use is not "expressly" permitted in a zoning district, it is prohibited. The Saline Ordinance does not <u>expressly</u> permit data centers, as Related's July 10 Application admitted. It follows that data centers are prohibited.

* Indeed, the Township has long been dominated by agriculture. So Related's Complaint ¶ 67 was nonsensical in saying:

> the denial of Plaintiffs' rezoning application is <u>designed to have</u> and does have the effect of excluding data centers and other industrial/research facilities from the Township in general and from the Property in particular [emphasis added],

in speaking of the Township's "design."

Recall, Related's project would not just be a data center, but a hyperscale data center. Even so, its Complaint alleges discrimination not just against its own project, but

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60 Township of Saline Rezoning Amendment Application, 7-10-25, Attachment 6, findings of fact answers 1, 4, 5.

against all data centers even those which fit in a closet.[61]

* The contention that the Township "designed" its Ordinance so as to exclude data centers is a claim of intentional discrimination.

But as noted, at the time the Township designed the Ordinance and Master Plan, no one there had ever heard of data centers. It can hardly be said that Saline Township did anything like the "subterfuge" undertaken by Augusta Township in the *English*, case, that it intended to discriminate against data centers when it did not even know they existed.

* Related's proposal violated Michigan's presumption against "spot zoning." Recall, its eight contiguous parcels are completely surrounded by A-1 parcels owned by other residents. Michigan courts say of spot zoning:

> Although not denounced by any hard and fast rule, zoning in a haphazard manner is not favored and, on the contrary, zoning should proceed in accordance with a definite and reasonable policy. Thus, a zoning ordinance or an amendment of a zoning ordinance to permit piecemeal or haphazard zoning is void, and so-called "spot zoning," where it is without a reasonable basis, is invalid. The legislative intention in authorizing comprehensive zoning is <u>reasonable uniformity</u> within districts having in fact the same general characteristics and not the marking off, for peculiar uses or restrictions of small districts essentially similar to the general area in which they are situated.[62]

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61 Complaint ¶ 67.

62 *Jostock v May field Township,* 347 Mich App 259 (2023) (emphasis added), vacated on other grounds, 513 Mich 360 (Mich. 2024); *City of Seville v Carrollton Concrete Mix.* 259 Mich App 257 (2004); *Anderson v Highland Township*, 21 Mich App 64 (1969).

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The irony of a huge corporation claiming to be a victim under laws intended to protect racial and ethnic minorities is not lost on Township residents.

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