

STATE OF MICHIGAN
IN THE SUPREME COURT

SAUGATUCK DUNES COASTAL
ALLIANCE,

Plaintiff-Appellant,

v.

SAUGATUCK TOWNSHIP;
SAUGATUCK TOWNSHIP ZONING
BOARD OF APPEALS; AND NORTH
SHORES OF SAUGATUCK, LLC,

Defendants-Appellees.

Supreme Court Nos. 160358, 160359
Court of Appeals Nos. 342588, 346677
Trial Court Case Nos. 2017-058936-AA;
2018-059598-AA

**BRIEF OF AMICUS CURIAE¹ ENVIRONMENTAL LAW & POLICY CENTER AND
NATIONAL TRUST FOR HISTORIC PRESERVATION IN SUPPORT OF
SAUGATUCK DUNES COASTAL ALLIANCE'S
APPLICATION FOR LEAVE TO APPEAL**

Scott W. Howard (P52028)
Rebecca L. Millican (P80869)
Olson, Bzdok & Howard, P.C.
420 East Front Street
Traverse City, MI 49686
Tel: (231) 946-0044
scott@envlaw.com
rebecca@envlaw.com

Attorneys for Plaintiff-Appellant

Margrethe Kearney (P80402)
Environmental Law & Policy Center
1514 Wealthy Street SE, Suite 256
Grand Rapids, MI 49506
Tel: 312-795-3708
mkearney@elpc.org

Attorney for Amicus Curiae

Carl J. Gabrielse (P67512)
GABRIELSE LAW PLC
240 East 8th Street
Holland, MI 49423
Tel: (616) 403-0374
carl@gabrielselaw.com

Gaetan Gerville-Reache (P68718)
Ashley G. Chrysler (P80263)
WARNER NORCROSS + JUDD LLP
1500 Warner Building
150 Ottawa Avenue NW
Grand Rapids, MI 49503
Tel: (616) 752-2000
greache@wnj.com

*Attorneys for Appellee North Shores of
Saugatuck, LLC*

James M. Straub (P21083)
Sarah J. Hartman (P71458)

¹ No counsel for a party to this appeal authored this brief in whole or in part. No counsel or party to this appeal made a monetary contribution towards the preparation of this brief. MCR 7.312(H)(4).

Straub, Seaman & Allen, P.C.
1014 Main Street
St. Joseph, MI 49085
Tel: (269) 982-7717
jstraub@lawssa.com
shartman@lawssa.com

Attorneys for Appellee Saugatuck Township

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STATEMENT OF JURISDICTION

1. This Court may grant discretionary review of a decision by the Court of Appeals under MCR 7.303(B)(1).
2. Proper grounds exist to grant Appellant's application for leave because the decision of the Court of Appeals is clearly erroneous and will cause material injustice, and because the Court of Appeals' decision conflicts with other decisions of the Court of Appeals such as *N. Michigan Env'tl. Action Council v. City of Traverse City*, No. 332590, 2017 WL 4798638 (Mich. Ct. App. Oct. 24, 2017), and *Tobin v. City of Frankfort*, No. 296504, 2012 WL 2126096 (Mich. Ct. App. June 12, 2012). MCR 7.305(B)(5). Moreover, the questions presented by this case involve principles of major significance to the state's Michigan Zoning Enabling Act jurisprudence.

STATEMENT OF QUESTION PRESENTED²

- 1. Did the Michigan Court of Appeals apply the wrong test when determining whether the Saugatuck Dunes Coastal Alliance was a “party aggrieved” under MCL §§ 125.3605, 125.3606?**

Appellant Saugatuck Dunes Coastal Alliance answers: Yes

Appellees Saugatuck Township and Saugatuck Township Zoning Board of Appeals answer: No

Appellee North Shores of Saugatuck, LLC, answers: No

Proposed Amicus Curiae Environmental Law & Policy Center and National Trust for Historic Preservation in the United States answer: Yes

² To the extent that Appellant presents other questions, proposed amicus curiae take no position.

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INTRODUCTION

Michigan’s jurisprudence and constitution support an expansive and prudential approach to litigants’ access to Michigan courts. *See Lansing Schools Educ. Ass’n v. Lansing Bd. of Educ.*, 487 Mich. 349, 364 (2010) (explaining that Michigan courts’ judicial power to decide controversies is broader than federal courts). For example, a litigant generally has standing if she has “a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large or if the statutory scheme implies that the legislature intended to confer standing.” *Id.* at 372. The Court of Appeals, however, has been applying an increasingly restrictive interpretation of Michigan’s zoning statutory scheme, closing courthouse doors to review of zoning decisions that affect the interests of non-property owners and interests concerning ecological or cultural damage. This case presents the Supreme Court of Michigan with an opportunity to clarify that access to Michigan courts under Michigan’s zoning law should be equal in scope to that provided under Michigan standing law generally. The Court can thereby protect the process by which communities can seek to hold their government responsible for striking an appropriate balance between development interests and the protection of cultural, historical, and environmental interests.

INTERESTS OF THE AMICI

Proposed Amicus Curiae Environmental Law & Policy Center (“ELPC”) is a non-profit public interest environmental legal advocacy and eco-business innovation organization. ELPC works to improve environmental quality by preserving natural resources, protecting clean water, advocating for cleaner air, and advancing clean renewable energy and energy efficiency resources in Michigan and the Midwest. ELPC has an office located in Grand Rapids, Michigan and has members throughout the state, including Saugatuck Township.

Through public comments, public hearings, legal actions, and other avenues, ELPC regularly supports community engagement in environmental matters. Because of its commitment to preserving natural resources, as well as preventing and combatting pollution, ELPC is committed to enabling people and communities to have a voice in legal processes. ELPC has been involved in protecting the Saugatuck Dunes area since 2010, and ELPC attorneys have represented the Appellant Saugatuck Dunes Coastal Alliance (“Coastal Alliance”) on comments to a permit application by North Shores of Saugatuck, LLC (“North Shores”) to the Army Corps of Engineers for construction of a deep-water marina near the mouth of the Kalamazoo River, as well as on other related Saugatuck Dunes area development and protection matters.

Proposed Amicus Curiae National Trust for Historic Preservation in the United States (“National Trust” or “Trust”) is a federally-chartered charitable and educational organization. The Trust was established by Congress in 1949 as a private nonprofit organization to further the historic preservation policies of the United States and “to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest.” 54 U.S.C. § 312102.

The Trust works closely with hundreds of independent nonprofit preservation organizations at the state and local levels. The Attorney General, the Secretary of the Interior, and the Director of the National Gallery of Art are statutory ex officio members of the Trust’s Board of Trustees. *Id.* § 312104(a). In turn, the Chair of the National Trust is an ex officio member of the Advisory Council on Historic Preservation, an independent federal agency that promotes the preservation, enhancement, and productive use of our nation’s historic resources, and advises the President and Congress on national historic preservation policy. *Id.* § 304102(a).

With more than one million members and supporters nationwide, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in

programs and policies at all levels of government. The National Trust frequently participates, both as a party and as amicus curiae, in legal proceedings that involve the application and enforcement of laws that promote the preservation of historic places.

With respect to Saugatuck Dunes, the National Trust's advocacy to protect this unique cultural site dates back more than a decade. The National Trust included the Saugatuck Dunes in its 2010 list of *America's 11 Most Endangered Historic Places*, and has been engaged ever since in advocacy to protect the site. The National Trust submitted comments to the Saugatuck Zoning Board of Appeals on October 11, 2012, opposing an earlier development proposal on the site, and the National Trust has participated since 2017 as a consulting party in connection with the Army Corps of Engineers' review of a permit application from North Shores for construction of the marina, submitting comments most recently to the Army Corps on October 4, 2019.

STATEMENT OF FACTS

This appeal stems from community members' efforts to challenge a proposed development in an area with unique natural and cultural resources in Saugatuck Township (the "Township"), situated north of the Kalamazoo River channel and near Lake Michigan. The surrounding area includes a freshwater ecosystem designated as "critical dunelands" by the State of Michigan, the Saugatuck Dunes State Park, and other preserved lands. *See* MCL § 324.35302 ("The critical dunes of this state are a unique, irreplaceable, and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state."); *Allegan County, Saugatuck Township Critical Dune Areas*, MICHIGAN, https://www.michigan.gov/egle/0,9429,7-135-3311_4114-70207-,00.html (last visited January 23, 2020). It also includes significant cultural resources. *See* Kristine M. Kidorf, et al, SAUGATUCK HISTORICAL COASTAL SURVEY REPORT (Jan. 2010),

available at https://saugatuckdunescoastalalliance.com/wp-content/uploads/2018/06/FINAL_REPORT_MAR-2010.pdf (last visited Feb. 20, 2020).

In Michigan, like in many other states, the legislature has delegated land use regulation through zoning to local governments, such as the Township. MCL § 125.3201. Pursuant to that authority—the Michigan Zoning Enabling Act (“MZEA”)—the Saugatuck Township Planning Commission (“Planning Commission”) administers the Township’s zoning ordinance and considers applications for uses that deviate from traditional zoning requirements. Saugatuck Twp. Ord. §§ 40-691, 40-772. The MZEA provides for “a person aggrieved” to seek review of Planning Commission decisions by the local zoning board of appeals—here, the Saugatuck Township Zoning Board of Appeals (the “Board”). MCL § 125.3604. Similarly, “a party aggrieved” by the decision of the Board may appeal to the circuit court. MCL §§ 125.3605, 125.3606.

North Shores applied to the Planning Commission for a Planned Unit Development (“PUD”) and a Special Approval Use (“SAU”) to develop condominium units and a private deep-water marina, a development that would require dredging sand from and permanently altering the Kalamazoo River channel and surrounding critical sand dunes. *See Saugatuck Dunes Coastal All. v. Saugatuck Twp.*, No. 342588, 2019 WL 4126752, at *1 (Mich. Ct. App. Aug. 29, 2019). The Planning Commission held three consecutive public hearings on North Shores’ application. *See Saugatuck Twp. Ord. §§ 40-692* (requiring a public hearing on an application for a SAU), 40-772(4) (requiring at least one public hearing on an application for a PUD). Members of the Coastal Alliance, a nonprofit coalition of over 2,000 individuals and organizations working cooperatively to protect and preserve the natural geography, historical heritage, and rural character of the Saugatuck Dunes coastal region in the Kalamazoo River Watershed, attended and participated in all three of these hearings. Coastal Alliance members also sent the Planning Commission public

comments regarding the proposed development before the second meeting. The Coastal Alliance and other community members expressed concerns that North Shores' proposed developments would not be harmonious with the surrounding area, that they would change the hydrology and overall ecology of the dunes and interdunal wetlands, that they presented a traffic hazard along the channel, and that they would violate the Township's zoning ordinance. Nonetheless, at the final public hearing, the Planning Commission unanimously granted two approvals: (1) preliminary approval for North Shores' PUD, and (2) approval for North Shores' SAU.³ See *Saugatuck Dunes Coastal All.*, 2019 WL 4126752, at *1.

The Coastal Alliance appealed the Planning Commission's approvals to the Saugatuck Township Zoning Board of Appeals (the "Board") pursuant to the MZEA. The Board, however, never considered the merits of the Coastal Alliance's appeal because the Board determined that the Coastal Alliance was not a "person aggrieved" under the MZEA. Zoning Bd. of Appeals Minutes, April 9, 2018, Findings at 2(A). In reaching this conclusion, the Board interpreted the MZEA to require that SDCA must articulate damage "different from damage that would allegedly be sustained by the general public." *Id.*, Findings at 2(B) (emphasis added).

The Coastal Alliance appealed the Board's decision to the Allegan County Circuit Court, which also ruled that the Coastal Alliance "was not an aggrieved party" under the MZEA. See *Saugatuck Dunes Coastal All.*, 2019 WL 4126752, at *1; *Saugatuck Dunes Coastal All. v. Saugatuck Twp.*, Case No. 18-059598-AA (Allegan Cty. Cir. Ct., Nov. 14, 2018); *Saugatuck Dunes Coastal All. v. Saugatuck Twp.*, Case No. 17-58936-AA (Allegan Cty. Cir. Ct., Feb. 6,

³ Later, the Planning Commission granted final approval for the PUD. The Coastal Alliance separately appealed the Planning Commission's initial decision (the preliminary approval of the PUD and final approval of the SAU) and its later decision (final approval of the PUD). Those appeals have been consolidated and are both presented to the Michigan Supreme Court in this case.

2018). The Coastal Alliance then appealed to the Michigan Court of Appeals, which applied a different test for determining whether the Coastal Alliance was a “party aggrieved” under the MZEA. The Court of Appeals applied a narrower test, and held that the Coastal Alliance was not a “party aggrieved” pursuant to the MZEA because it had not shown that its members “will suffer harms distinct from *other property owners similarly situated*.” *Saugatuck Dunes Coastal All.*, 2019 WL 4126752, at *4 (Mich. Ct. App. Aug. 29, 2019). The Court of Appeals noted, “some of the affiants are not even actual owners of nearby property; and otherwise all of the articulated concerns are either speculative, broad environmental policy matters, or pertain to harms that could be suffered by any nearby neighbor, business, or tourist.” *Id.*

The Coastal Alliance now requests that this Court grant leave to appeal. The proposed Amicus Curiae support the Coastal Alliance’s request so that this Court may clarify the correct standard for determining who is “a party aggrieved” under the MZEA.

ARGUMENT

To be a “party aggrieved” to bring an appeal under the MZEA does not require a showing of injury different from injury to other similarly situated property owners. Instead, as this Court should announce, a party is “aggrieved” if it suffers harm distinct from harm suffered by the public at large and is aggrieved, i.e., prejudiced or affected, by the reviewing body’s decision on the party’s challenge. *See General v. Bd. of State Canvassers*, 887 N.W.2d 786, 787 n.6 (Mich. 2016) (relying upon Black’s Law Dictionary to interpret “aggrieved,” which is simply a general term of art for where “a party must demonstrate that it has been harmed in some fashion”); *Aggrieved*, Black’s Law Dictionary (11th ed. 2019) (defining “aggrieved” as “having legal rights that are adversely affected”); *see also Federated Ins. Co. v. Oakland Co. Rd. Comm’n*, 475 Mich. 286, 291 (2006); *Matthew R. Abel, P.C. v. Grossman Investments Co.*, 302 Mich. App. 232, 237-44 (2013).

Here, that means the Coastal Alliance must have a substantial interest that will be affected by the Planning Commission's zoning decisions, which in turn was affected by the Board's affirmance, and then the Circuit Court's affirmance, of the Planning Commission's decisions. MCL §§ 125.3604, 125.3605, 125.3606; *see also Lansing Schools*, 487 Mich. at 373 n.21 ("It is not disputed that, under Michigan law, an organization has standing to advocate for the interests of its members if the members themselves have a sufficient interest.").

But here, the Court of Appeals distorts the phrase "party aggrieved" in the MZEA to mean a party that has "suffered some special damages not common to *other property owners similarly situated*." *Saugatuck Dunes Coastal All.*, 2019 WL 4126752, at *3 (quoting *Olsen v. Chikaming Twp.*, 325 Mich. App. 170, 185 (2018)) (emphasis added). The court opined, "'common environmental changes' [have been] deemed inadequate to establish that a party is 'aggrieved.'" *Id.* at *4 (quoting *Olsen*, 325 Mich. App. at 185). The Court of Appeals added three restrictions and qualifications to "party aggrieved" that a plain language reading of the statute does not support and are inconsistent with other decisions of Michigan's Court of Appeals and zoning decisions of other states. *First*, the MZEA does not require a party's damages to be compared to the artificially small universe of "other property owners similarly situated." Michigan's standing law jurisprudence also does not require such a small pool of comparators, and neither do the statutory tests for challenges to zoning decisions in other states. *Second*, the MZEA does not restrict who could be considered a "party" to "property owners." *Third*, contrary to what the Court of Appeals said in the instant case, environmental damages *can* be "special damages," or particularized injuries for purposes of determining that a party is "aggrieved" under the MZEA. ELPC and the Trust agree with the argument advanced by the Coastal Alliance with respect to the restriction that inappropriately requires a party to be a property owner. ELPC and the Trust write separately to

highlight the flaws in the first restriction regarding the comparator for a party's damages and the third restriction regarding environmental damages.

I. The Court of Appeals misinterpreted and misapplied the “party aggrieved” standard by comparing the party’s damages to “other property owners similarly situated” instead of the citizenry at large.

The Court of Appeals errs by continuing to compare the interests of litigants in zoning challenges to “neighboring property owners similarly situated.” The Supreme Court should clarify that the MZEA “party aggrieved” standard directs courts to consider whether a litigant has a “special injury or right, or substantial interest, that will be detrimentally affected in a manner different from *the citizenry at large*.” *Lansing Schools*, 387 Mich. at 372. While the Court of Appeals explicitly did not determine whether the Coastal Alliance had standing under the *Lansing Schools* test, this Court’s analysis in *Lansing Schools* provides guidance with respect to interpreting the MZEA’s grant of authority for aggrieved parties to seek relief from a decision of a Zoning Board of Appeals. Like the purpose of prudential standing, the purpose of a statutory grant of standing is to ensure “sincere and vigorous advocacy” by litigants. *Id.* Where, as here, a cause of action is provided by law, the statutory language granting the cause of action should be interpreted consistent with the underlying purposes of prudential standing. And while *Lansing Schools* suggests that the legislature can create a cause of action for litigants who would not meet the prudential standing test, there is no suggestion in *Lansing Schools* that statutory causes of action should be assumed to narrow Michigan’s prudential standing test.

Given the lack of clearly limiting language in the MZEA, this Court should interpret the “party aggrieved” standard to be similar in scope to prudential standing. This interpretation is not only consistent with long-standing canons of statutory interpretation, *see* Application for Leave to Appeal filed by Appellant Saugatuck Dunes Coastal Alliance at 11-14, it is consistent with the

types of harms that typically arise from erroneous zoning actions with adverse environmental consequences. For example, community members that have a substantial interest in the protection of a habitat, because they own property near that habitat and enjoy hiking in or observing the species unique to that habitat, will be differently affected by an action damaging the habitat as compared to members of the general public that do not own property near, visit, hike, or observe species in that habitat. *See Karrip v. Cannon Twp.*, 115 Mich. App. 726, 732-33 (1982) (recognizing that those who use a particular lake and seek to maintain access to the lake have standing to intervene in a case about the county road that provides access to the lake, in contrast to members of the general public who do not use the lake and have no standing). Yet those aggrieved individuals may not suffer harm that is distinguishable from other similarly-situated property owners, because damage to the habitat has a uniform, adverse impact on nearby property.

Many other states already apply similar tests in the zoning context. For example, much like the MZEA, Ohio law allows “any person aggrieved” by an administrative zoning decision to appeal that decision to the local Board of Zoning Appeals. *Midwest Fireworks Mfg. Co. v. Deerfield Twp. Bd. of Zoning Appeals*, 91 Ohio St.3d 174, 177 (2001). The Supreme Court of Ohio is satisfied that an appellant is a “person aggrieved” in a zoning appeal where the appellant’s “position is unique as compared to *others within the general community.*” *Id.* at 178 (emphasis added). Indeed, where the appellant was a property owner, the Supreme Court of Ohio rejected the idea that he should be compared to similarly situated property owners by specifying that the appellant was unique compared to others who did not live across from a factory like he did. *Id.*

Similarly, in Wyoming, in the context of zoning and land use law, “an aggrieved or adversely affected person having standing to sue . . . must have a definite interest exceeding the general interest in community good shared in common with all citizens.” *Northfork Citizens for*

Responsible Dev. v. Park Cty. Bd. of Cty. Comm'rs, 189 P.3d 260, 263 (Wyo. 2008) (citation omitted); *see also Sheehan v. Zoning Bd. of Appeals of Plymouth*, 65 Mass. App. Ct. 52, 54 (2005) (comparing the injury or loss of the plaintiff to “the concerns of the community”). The Supreme Court of Wyoming has recognized that individuals have standing to challenge a zoning decision where “they have complained of interference with their scenic views and adverse impacts on wildlife habitat and migration.” *Northfork Citizens for Responsible Dev.*, 189 P.3d at 264. Even though “the general public may have a broad interest in preserving views and protecting wildlife,” the individuals had standing because “their interests in observing and enjoying wildlife on their own properties[] exceed[ed] the general public’s interest in community good.” *Id.*

This Court should recognize that the statutory requirements for zoning challenges should be consistent with other parts of Michigan law, and that the plain language of the MZEA does not restrict “party aggrieved” status to the narrow subset of those whose injuries are different from other similarly situated property owners. In doing so, this Court can protect Michigan residents’ ability to access courts in a way that other states already protect their residents’ ability to seek redress in state court.

II. The Court of Appeals misinterpreted and misapplied the “party aggrieved” standard in the MZEA because environmental harms can amount to special damages.

Relying on the false premise that “‘common environmental changes’ [have been] deemed inadequate to establish that a party is ‘aggrieved,’” the Court of Appeals dismissed all of the Coastal Alliance’s concerns as “environmental,” without considering whether they could be injuries here. *Saugatuck Dunes Coastal All.*, 2019 WL 4126752, at *4 (quoting *Olsen*, 325 Mich. App. at 185). Not only is the premise misleading, it is inconsistent with other Court of Appeals opinions in MZEA cases and standing principles more broadly.

First, environmental damages have long been considered sufficient injuries for the purpose of standing. See *Trout Unlimited, Muskegon White River Chapter v. City of White Cloud*, 195 Mich. App. 343, 349 (1992) (recognizing the plaintiffs’ standing to challenge the legality of the construction of a new dam because the dam could affect their interests in the river’s fish population). Even during the decade when Michigan applied a more stringent test to standing—between *Lee v. Macomb County Board of Commissioners*, 464 Mich. 726 (2001), and *Lansing Schools*—this Court recognized allegations of environmental injuries where plaintiffs “aver[red] that they use the affected area and are persons for whom the aesthetic and recreational values of the area will be lessened by the challenged activity.” *Nat’l Wildlife Fed. v. Cleveland Cliffs Iron Co.*, 471 Mich. 608, 629 (2007) (internal quotation and citation omitted), *overruled on other grounds by Lansing Schools*, 487 Mich. at 371 n.18. For example, an organization’s members had standing where they “alleged [that] they bird-watched, canoed, bicycled, hiked, skied, fished, and farmed in the area, they plan[ned] to continue to do so as long as the area remains unspoiled, and they [we]re concerned that the [expansion of a mine would] irreparably harm their recreational and aesthetic enjoyment of the area.” 471 Mich. at 630.

Indeed, Michigan’s constitution calls “[t]he conservation and development of the natural resources of the state” a matter “of paramount public concern,” and calls on the legislature to “provide for the protection of the air, water, and other natural resources of the state from pollution, impairment and destruction.” M.C.L. Const. art. 4, § 52. It would thus be unnatural to understand the legislature to have set up a scheme for appellate review of zoning decisions in the MZEA that prevented consideration of pollution, impairment, and destruction of natural resources in zoning decisions.

Second, specific allegations of environmental harm are sufficient to establish “party aggrieved” status under the MZEA. For example, in *Tobin*, the case that North Shores has pointed to as one where the “party aggrieved standard was met,” the Court of Appeals recognized “the significant filling of wetlands” and “allegations of flooding” as specific injuries appropriate for consideration in a zoning appeal. *Tobin v. City of Frankfort*, No. 296504, 2012 WL 2126096, at *2 (Mich. Ct. App. June 12, 2012). While the court in *Tobin* concluded that generalized concerns about air pollution were not sufficient injuries, that conclusion did not rest on the principle that air pollution allegations were an environmental harm. After all, the wetlands and flooding allegations also involved environmental harm. Rather, *Tobin* concluded that the air pollution concerns were stated with insufficient specificity to be understood as “special damages.” In other words, the environmental injury must be alleged in a way that is special or substantial, and “which indicate[s] an adverse interest necessitating the sharpening of the issues raised.” *See Lansing Schools*, 487 Mich. at 372 n.20.

Similarly, the Court of Appeals has held that allegations by “a non-profit organization devoted to protecting the environment”—that its members residing in the area affected by a zoning decision are aggrieved because “the city environment, the Boardman River, the surface and subsurface soils, contamination in the soil, glare, solar power access impairment, bird migration, and airflow would all be impacted and/or degraded”—are “sufficient to confer standing . . . at the pleading stage.” *N. Mich. Env'tl. Action Council v. City of Traverse City*, No. 332590, 2017 WL 4798638, at *3 (Mich. Ct. App. Oct. 24, 2017); *see also id.* at *2 (recognizing that an individual’s “loss of access airflow, sunlight, or a view could be considered a ‘special injury’” for aggrieved party status).

Third, Olsen, the case upon which the Court of Appeals relied in dismissing the Coastal Alliance’s appeal, imagined into existence the premise that environmental damages cannot render a party “aggrieved” under the MZEA. *Olsen* purported to rely upon *Unger v. Forest Home Twp.*, 65 Mich. App. 614, 617 (1976), and *Joseph v. Grand Blanc*, 5 Mich. App. 566, 571 (1967), for its discounting of environmental damages. 325 Mich. App. at 185. Neither *Unger* nor *Joseph* mentions, let alone discusses, the viability of alleging environmental harms. Instead, *Joseph* established that an increase in traffic—as well as general economic and aesthetic losses—due to rezoning is not a “special damage.” 5 Mich. App. at 571. In *Unger*, the Court of Appeals rejected as grounds for standing mere property ownership combined with the inference that “traffic might increase” and that “property values in general for lake property might go down.”⁴ 65 Mich. App. at 618. Any intoning of precedent for the proposition that environmental damages are per se insufficient is thus meritless.

This Court should take the instant case on appeal and rectify this error of the Court of Appeals that environmental harms are not special damages, so that parties may seek judicial review of zoning decisions that would otherwise cause specific environmental harm.

CONCLUSION

This Court should apply the same definition of “aggrieved” as “adversely affected,” which it does in other contexts, to the zoning context. By doing so, this Court can strip away the unjust

⁴ It is also possible that the Michigan Supreme Court meant that the increased traffic alleged in *Joseph* and *Unger* was too speculative and general, but that more specific allegations about increased traffic and its consequences could have provided an adequate basis for standing. Allegations about increased traffic congestions, resulting in increased dust, noise, and/or air pollution, are sufficient to establish standing in Michigan and in other states. See, e.g., *Brown v. East Lansing Zoning Bd. of Appeals*, 109 Mich. App. 688, 699-700 (1981) (noting that the allegations about increases in traffic and population went “beyond” those that were inadequate to confer standing in *Joseph*); see also *Shinnecock Neighbors v. Town of Southampton*, 37 N.Y.S. 3d 679, 684 (2016); *Ciszek v. Kootenai Cty. Bd. of Comm’rs*, 151 Idaho 123 (2011).

and artificial restrictions that the Court of Appeals applied here, and this Court can clarify both that a litigant's interest or injury must be compared, not to other property owners, but to the public at large, and that environmental damages can be special damages.

For the reasons stated above, proposed amici respectfully request that this Court grant leave to appeal and address the test for determining whether a party is "aggrieved" for purposes of pursuing a zoning appeal.

INDEX TO ATTACHMENTS

Attachment 1: *Tobin v. City of Frankfort*, unpublished per curiam opinion of the Michigan Court of Appeals, issued June 12, 2012.

Attachment 2: *N. Mich. Env'tl. Action Council v. City of Traverse City*, unpublished per curiam opinion of the Michigan Court of Appeals, issued October 24, 2017. File name