

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>Midwest Retailers Associated, Ltd.</b>	)	Case No. 3:08-CV-851
	)	
Plaintiff.	)	
	)	CHIEF JUDGE JAMES G. CARR
vs.	)	
	)	
<b>City of Toledo,</b>	)	
	)	
Defendant.	)	
	)	
	)	
	)	
	)	

**DEFENDANT CITY OF TOLEDO'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

Defendant City of Toledo, for its answer to Plaintiff's Complaint, states as follows:

1. The allegations set forth in paragraph 1 of the Complaint speak for themselves. To the extent these allegations are deemed to require a responsive pleading, Defendant denies them.
2. Defendant denies the allegations contained in paragraph 2 of the Complaint for lack of knowledge as to the truth of the matters asserted.
3. The allegations set forth in paragraph 3 of the Complaint amount to a statement of jurisdiction to which no response is required. To the extent these allegations are deemed to require a responsive pleading, Defendant denies them.
4. Defendant does not dispute that venue is proper in this Court and, therefore, admits the same.

5. Defendant denies the allegations of paragraph 5 of the Complaint for lack of knowledge as to the truth of the matters asserted therein.

6. Defendant admits the allegations contained in paragraph 6 of the Complaint.

7. Defendant admits the allegations contained in paragraph 7 of the Complaint.

8. Defendant admits the allegations contained in paragraph 8 of the Complaint.

9. Defendant admits the allegations contained in paragraph 9 of the Complaint.

10. Defendant admits that a letter was sent to some convenience stores notifying them that their application and licensing fee should be received by May 1, 2008.

11. Defendant admits the allegations contained in paragraph 11 of the Complaint.

12. Defendant admits the allegations contained in paragraph 12 of the Complaint.

13. Defendant admits the allegations contained in paragraph 13 of the Complaint

14. Defendant admits §721.13 requires that convenience store owners, at their own expense, install at least one security camera on their premises.

15. Defendant admits the allegations contained in paragraph 15 of the Complaint.

16. Defendant admits the allegations contained in paragraph 16 of the Complaint.

17. Defendant admits the allegations contained in paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in paragraph 18 of the Complaint.

19. Defendant denies the allegations contained in paragraph 19 of the Complaint.

20. Defendant denies the allegations contained in paragraph 20 of the Complaint.

21. Defendant admits the allegations contained in paragraph 21 of the Complaint.

22. Defendant admits the allegations contained in paragraph 22 of the Complaint.

23. Defendant admits the allegations contained in paragraph 23 of the Complaint.

24. Defendant admits the allegations contained in paragraph 16 of the Complaint.

**COUNT ONE**

**Violation of Civil Rights Under 42 U.S.C. §1983**

25. Defendant incorporates by reference its answers as set forth in paragraphs 1 through 24 as if fully rewritten.

26. Defendant denies the allegations contained in paragraph 26 of the Complaint.

27. Defendant denies the allegations contained in paragraph 27 of the Complaint.

28. Defendant denies the allegations contained in paragraph 28 of the Complaint.

29. Defendant denies the allegations contained in paragraph 29 of the Complaint.

30. Defendant denies the allegations contained in paragraph 30 of the Complaint.

**COUNT TWO**

**Vagueness**

31. Defendant incorporates by reference its answers as set forth in paragraphs 1 through 30 as if fully rewritten.

32. Defendant denies the allegations contained in paragraph 32 of the Complaint.

**COUNT THREE**

**Conflict with State Law**

33. Defendant incorporates by reference its answers as set forth in paragraphs 1 through 32 as if fully rewritten.

34. Defendant denies the allegations contained in paragraph 34 of the Complaint.

**COUNT FOUR**

**Declaratory Judgment**

35. Defendant incorporates by reference its answers as set forth in paragraphs 1 through 34 as if fully rewritten.

36. Defendant denies the allegations contained in paragraph 36 of the Complaint.

**COUNT FIVE**

**Preliminary and Permanent Injunction**

37. Defendant incorporates by reference its answers as set forth in paragraphs 1 through 36 as if fully rewritten.

38. Defendant denies the allegations contained in paragraph 38 of the Complaint.

39. Defendant denies each and every allegation of the Complaint not specifically admitted herein.

**DEFENSES**

40. Plaintiff has failed to state a cause of action for which relief can be granted.

41. Defendant, at all material times, conducted itself in a manner required or authorized by law.

42. Plaintiff's claims are barred by the doctrine of estoppel and laches.

43. Defendant reserves the right to add additional defenses as discovery proceeds.

**WHEREFORE**, Defendant prays that the Complaint be dismissed with prejudice at Plaintiff's costs, and for such other relief as this Court deems necessary or proper.

Respectfully submitted,  
JOHN T. MADIGAN, DIRECTOR OF LAW

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Counsel for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Answer was filed electronically this 12<sup>th</sup> day of May, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Keith J. Winterhalter  
Keith J. Winterhalter, Senior Attorney

KJW/db/MidwestRetailers-Answer  
5/01/08