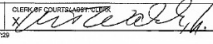


SUMMARY JUDGMENT MASS. R. CIV. P. 56		Trial Court of Massachusetts The Superior Court
DOCKET NUMBER	1279CV00837	Laura S Gentile, Clerk of Courts
CASE NAME	Holyoke City Council et al vs. City of Holyoke et al	COURT NAME & ADDRESS Hampden County Superior Court Hall of Justice - 50 State Street P.O. Box 553 Springfield, MA 01102
JUDGMENT FOR THE FOLLOWING PLAINTIFF(S) Holyoke City Council Jourdain Individually, Kevin Braunhan Individually, Daniel McGee Individually, Todd Leahy Individually, James M Vacon Individually, Linda		
JUDGMENT AGAINST THE FOLLOWING DEFENDANT(S) City of Holyoke Morse, Alex B Mizael, Robert S Liptak, Katharine M Mertes, Patricia A Tapestry Health Systems Inc		
This action came before the Court, Hon. Mark D Mason, presiding, upon motion for Summary Judgment of the plaintiff named above, Pursuant to Mass. R. Civ. P. 56. The parties having been heard, and the Court having considered the pleadings and submissions, finds there is no genuine issue as to material fact and that the plaintiff is entitled to a Judgment as a matter of law.		
It is ORDERED and ADJUDGED: That the Defendants' Motion for Summary Judgment having been denied and the Plaintiffs' Motion for Summary Judgment having been allowed, Judgment is hereby entered for the Plaintiffs.		
DATE JUDGMENT ENTERED	04/21/2016	CLERK OF COURTS SIGNATURE 
Docket No 91999 04-21-2016 14:07:29		SDWH182016

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss. SUPERIOR COURT
CIVIL ACTION
No. 12-0837

HOLYOKE CITY COUNCIL & others¹
Plaintiffs
v.
CITY OF HOLYOKE & others²
Defendants

**ORDER ON
DEFENDANTS' MOTIONS TO RECONSIDER ORDER ON
CROSS-MOTIONS FOR SUMMARY JUDGMENT**

On March 14, 2016, I issued a Memorandum of Decision and Order in which I allowed summary judgment for the plaintiffs on their claim for declaratory relief. The defendants now ask me to reconsider my decision pursuant to Mass.R.Civ.P. 59(e). For the following reasons, the defendants' motions are **DENIED**.

A party seeking reconsideration of a prior ruling must show (1) some changed circumstances such as newly discovered evidence or information, or a development of relevant law, or (2) a particular and demonstrable error in the original decision. *Ashburn Hill S. Condo Ass'n v. Community Ass'n Underwriters of Am. 82* Mass. App. Ct. 461, 470 (2012), citing *Peterson v. Hopson*, 306 Mass. 597, 600 (1940); *Barbosa v. Hopper Foods, Inc.*, 404 Mass. 610, 622 (1989). Whether to allow the motion is left to the judge's discretion. *Id.*

¹ Kevin Jourdain, Daniel Braunhan, Todd McGee, Joseph McGivern, James Leahy, and Linda Vacon.
² Alex B. Morse, in his official capacity as the Mayor of Holyoke, Robert S. Mizael, Katharine M. Liptak, and Patricia A. Mertes, as Commissioners of Holyoke Board of Health, and Tapestry Health Systems, Inc.

At hearing on the parties' cross-motions for summary judgment, the parties disputed whether G. L. c. 111, § 215 and G. L. c. 4 § 4, govern the parties' actions, as plaintiffs maintain, or whether G. L. c. 94C §§ 27, 27A do so, as defendants maintain. I carefully considered the parties' arguments and wrote a detailed opinion rejecting the defendants' interpretation of the law which governs the parties' dispute. See *Id.* (reconsideration criteria apply with particular force where party has received written, reasoned explanation of a ruling).

As set forth in my ruling, it is the authorization of Tapestry Health System Inc.'s needle exchange program (the "Tapestry program") which was unlawful. The Tapestry program was established pursuant G. L. c. 111, § 215. Indeed, Mayor Morse acknowledged that the Tapestry program was established pursuant to G. L. c. 111, § 215 in his August 14, 2012, letter to then Commonwealth of Massachusetts Department of Public Health Commissioner John Auerbach.³ The Mayor's letter is, at a minimum, some evidence that the Tapestry program was established pursuant to G. L. c. 111, § 215.

The defendants argue the important public policy behind the 2006 amendments to G. L. c. 94C § 27 *et seq.* to no avail. The parties' dispute has as much to do with municipal separation of powers as it has to do with the legitimacy of needle exchange programs. In the final analysis, it is G. L. c. 111, § 215 and G. L. c. 4 § 4, which govern the parties' actions.

Defendants may not turn the clock back on the defective authorization of the Tapestry program. Notably, the question of whether a different entity would be duly authorized pursuant to G. L. c. 94C §§ 27, 27A is not before me. See Tapestry Health System Inc.'s Memorandum at fn. 3.

³ In his August 14, 2012 letter, Mayor Morse wrote, in part, "Please be advised, in accordance with Massachusetts General Laws c. 111, § 215, I hereby approve the creation of a needle exchange program in the City of Holyoke."