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Single mom sues Ottawa, Kansas, to protect constitutional right to garden, produce locally raised honey, as home-based business.

Kansas Justice Institute files constitutional lawsuit to protect the right to earn an honest living and to use one's own backyard for a safe, peaceful purpose.

Ottawa, KS – Ellen Finnerty's dream business of selling homegrown produce and home-raised honey at the farmer's market is banned by the city of Ottawa, Kansas. She's fighting back against Ottawa's unconstitutional home-based business prohibitions, with the help of Kansas Justice Institute.

Ms. Finnerty is a 52-year-old single mom who works full-time as a machine operator. To help support her family, Ms. Finnerty wants the opportunity to sell homegrown produce and home-raised honey at the local farmer's market. But she can't. Ottawa outlaws any home-based business not "conducted entirely within a dwelling unit" and all home-based businesses involving "animal care of any type," where she lives. Since gardens grow outside, and honeybees are animals, Ms. Finnerty is prohibited from using her own backyard to garden and safely raise honey, as a home-based business.

"I want to produce honey. I want to produce local honey, and I want to be able to sell it at the local farmer's market," Ellen Finnerty said. "All of these years of talking and daydreaming and planning, and now I'm told I can't. It's very disappointing."

"It shouldn't be a crime to use your own backyard to produce homegrown vegetables and home-raised honey, but Ottawa can fine you \$500 and send you to jail for 6 months for *each day* you do this as a home-based business." KJI litigation director Sam MacRoberts said. "People have gardened and safely raised honey for thousands of years. There's no good reason to prevent Ellen from starting her home-based business."

"Everyone loves farmer's markets and locally sourced honey. Ellen shouldn't need a lawyer to be able to sell homegrown produce and home-raised honey at the farmer's market," says MacRoberts.

The Kansas Constitution protects the right to earn an honest living and to use your own backyard for a peaceful, productive, and benign purpose. The Kansas Constitution also prevents the

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government from treating people who garden and raise honey as a business worse than someone who does it as a hobby.

“Ellen isn’t suing the city for money. She’s fighting to protect everyone’s rights under the Kansas Constitution—the right to earn an honest living and to be able to use your own backyard for a safe and peaceful purpose,” MacRoberts said.

Represented at no charge by Kansas Justice Institute, Ms. Finnerty is suing the City to vindicate her rights, and the rights of all Kansans, to be free from unreasonable government regulations.

This case is part of [KJI](#)’s litigation campaign challenging laws that interfere with Kansans’ ability to produce, market, and buy foods of their choosing. This case is also part of KJI’s litigation efforts to make it easier for families to earn honest livings. In 2019, KJI successfully sued the State of Kansas over its [raw milk advertising prohibition](#), and in 2020, KJI sued the State over its occupational licensing requirement involving [eyebrow threading](#).

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