

## REASONS FOR RETAINING JUSTICES' OFFICES IN DETROIT AND TRAVERSE CITY

By Chief Justice Marilyn Kelly

The Court's precipitous decision to close the Detroit and Traverse City offices which was made last November by a vote of 4-3 was based on inaccurate information. In light of the more correct data that has now been obtained, the decision is ripe for reconsideration.

The action in November was precipitous in that three of the seven Justices, Justices Kelly, Cavanagh and Weaver, had no notice that the motion would be made. The matter under discussion was supposed to be whether Justice Hathaway was entitled to use the vacant office space in the Supreme Court offices in Detroit when she took office January 1. We three had no opportunity to discover the accuracy of the facts used to support the motion to close the offices; hence we voted against it.

### CLOSING THE DETROIT OFFICES WILL SAVE THE TAXPAYERS NOTHING

The action was based on inaccurate information. First, it assumed that the taxpayers would save \$265,000 in rent in Detroit if the Detroit offices were closed. This is untrue. In fact, if the offices were closed and the rent item removed from the Court's budget, there would be no savings whatsoever to the taxpayers. This is because the building housing the Court's Detroit offices, Cadillac Place, is leased by the State of Michigan. The State's lease payments for the Court's space there must be made whether the Court vacates the building or stays. If the Court were to leave Cadillac Place in fiscal year 2010, the rent now ascribed to the Court would be reallocated among the remaining tenants in state buildings.

However, a savings to the taxpayers would occur if a tenant that now pays rent to a private owner in another building could be found for the space used by the Court. Our staff has searched for such a tenant. There is none. This is because the typical tenant would require the Cadillac Place space to be reconfigured to suit the needs of its employees. The present configuration is suited to the Justices' needs and does not resemble the needs of the typical government agency.

The cost of reconfiguring the space is estimated to be in excess of \$1,700,000. The Court does not have in its budget any funds whatsoever to do this work. Similarly, the Department of Management & Budget has not offered any funds for this purpose. Our inquiry has verified, also, that federal stimulus funds will not be used for this purpose.<sup>1</sup>

Hence, if the Court vacates its space in Cadillac Place in FY2010, the space will remain vacant and the taxpayers will save absolutely nothing because of it.

In addition, funds would have to be appropriated to cover the expense of moving the Court's furniture, books and computer equipment out of the space in Detroit and Traverse City. Our staff estimates that this would cost in excess of \$10,000.00.

A second expense item that the Justices who voted to close the offices associated with the cost of the Detroit offices is its library. We have reviewed a listing of the books that are in the library. Some are duplications of books in the Court's library in Lansing. We have cancelled our subscriptions to all the books that are duplications. In the future, our staff in Detroit can have access to other copies of these books at one of several locations: the Court of Appeals library in Cadillac Place, online, or at the Wayne State University Law School library.

The remaining books in the Court's Cadillac Place library as well as Justices' newspaper and periodical subscriptions are not duplications. It was incorrect for those who voted to close the offices to add into the expense of the offices \$14,000 for "subscriptions". If the Court were to move the Detroit offices to Lansing, these books and subscriptions would go to Lansing. The expense of maintaining them would be the same, whether they were in Detroit, Traverse City or Lansing. Hence, due to the cost-saving changes we have made, closing the Detroit office would not save the taxpayers any money whatsoever in library expenses.

The final expense item associated with the Court's Detroit offices is Justices' travel, lodging and food. Detroit is considered the home base of the Justices located in

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<sup>1</sup> Susan Howarth, DMB

Cadillac Place. As a consequence, they are reimbursed for their out-of-pocket expenses when they travel to and from Lansing and for their lodging and food associated with trips to Lansing.

The expenses for this item for the Justices in Detroit last year were less than the cost of moving the offices to Lansing.

Therefore, there would be no net savings to the taxpayers of moving the Justices in Detroit to Lansing in FY2010: no rent savings, no library savings and the travel/food/lodging savings would be offset by the cost of moving the books, computer equipment and furniture. In summary, closing the Detroit offices would save the taxpayers no money at all.

CLOSING THE DETROIT OFFICES WOULD HAVE ADVERSE CONSEQUENCES FOR THE COURT, FOR SOUTHEAST MICHIGAN AND FOR THE JUSTICES PERSONALLY

The closing would have adverse consequences for the Court. For many decades, those contemplating election or appointment to the Michigan Supreme Court who live in Southeast Michigan have known that they would not be obliged to move to Lansing in order to serve as a Justice.<sup>2</sup> The same is true for Justices' clerks, secretaries and other staff members. Their office could be within reasonable commuting distance of their home. For example, the commute from my home to the Detroit office is approximately 40 minutes each way for a total of under 40

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<sup>2</sup> The Court's use of offices in Detroit can be traced back for many decades. For example, Justice Butzell served on the Court and worked out of a Detroit office from 1929 to 1935. Justice Bushnell served from 1934 to 1955 and worked out of Detroit. Between 1956 and the present, Detroit offices of the Michigan Supreme Court have been occupied by Justices George Edwards, Jr., Harry Kelly, Theodore Souris, Thomas G. Kavanagh, G. Mennen Williams, Charles Levin, James L. Ryan, Blair Moody, Jr., Dorothy Riley, Patricia Boyle, Dennis Archer, Conrad Mallett, Jr., myself, Maura Corrigan, Robert Young and Diane Hathaway. Hence, it appears that Michigan Supreme Court justices have maintained offices in Detroit continuously for at least the past 80 years.

miles. My commute to Lansing is at least 1 ½ hours each way for a total of more than 180 miles.

By closing the Detroit offices, the Court lessens the likelihood that, in the future, Justices, law clerks and other Court employees will be drawn from Southeast Michigan.

The closing would be adverse to Southeast Michigan. Over the 20 years that I have served in the Michigan appellate courts, my office has been there. Of course, I have always had office space in Lansing, as all the Justices have had which we use for Court meetings and hearings. But my staff has been located exclusively in Southeast Michigan. Hence, my office there has been, in every sense, my home or principal office. It is inaccurate and unfair to denominate it, as some have done, a "convenience office."

Because the office has been in Southeast Michigan, I have been able to reach out to schools and other organizations there. I frequently administer the oath of office to newly elected and appointed judges in the area. I frequently swear in new attorneys to the bar there. I speak to classes in public and private schools at all levels located there. I judge law students in moot court competitions at the law schools in the area. In addition, 61 of the 103 law school student interns who have worked for me have come from law schools in the Detroit area, as have 14 of the 32 law clerks I have hired.

If I were based in Lansing, the number of times I could speak or judge moot court in the Detroit area would be greatly reduced. Also, it is highly unlikely that law student interns from Detroit area law schools could work for me in Lansing.

It is also less likely that I would travel from Lansing to speak to professional and other groups that meet in Southeast Michigan, as I have done during the past 20 years. For example, this year, in March alone, I will address four different groups in the Southeast Michigan area: probate judges in Detroit, a women's labor group in Warren, the Elder Law Section of the State Bar of Michigan in Plymouth and a domestic violence summit of the Oakland County courts in Pontiac. I would probably have been unable to accept those invitations had I been based in Lansing.

Moreover, I receive frequent requests as Chief Justice to meet in my Detroit office on Court business with judges and the representatives of organizations located in Southeast Michigan. The Governor, Secretary of State and the Attorney General all have an office in Detroit for that purpose. The Chief Justice of the Michigan Supreme Court should not be treated differently.<sup>3</sup>

Finally, closing the Detroit and Traverse City offices would seriously disrupt the work of the Justices based there. By way of example, in all likelihood, I would lose two employees. One has worked for me for 20 years, the other for 12 years. Neither can move to Lansing. Because neither is a civil servant, both would lose their jobs if I move. That constitutes an unnecessary hardship for them, and it would require me to hire and train two new employees.

#### JUSTICE WEAVER'S TRAVERSE CITY OFFICE

Many of the points I have made apply also to the Traverse City office occupied by Justice Weaver. The rent for that office was \$62,000.00 this year, significantly less than the offices in Detroit. Because the space is privately-owned, Justice Weaver will move to a Traverse City state building. This would reduce the cost to the taxpayers. Justice Weaver assures me that she will move to a state building as soon as space is available for her.

This is a far better option for the State than closing the office. A closing would discourage a potential Justice who lives north of the Lansing-Detroit beltway from seeking the position of Supreme Court Justice and deprive residents in that large area of the state of the community activities of a Justice.

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<sup>3</sup> Attached are letters urging the Court to reconsider its decision to close the offices from United States federal district court Judge Avern Cohn, Wayne State University Law School Dean Robert Ackerman, University of Detroit Law School Dean Mark Gordon, Thomas M. Cooley Law School at Auburn Hills Associate Dean John Nussbaumer, the Detroit Metropolitan Bar Association, the American Board of Trial Advocates, Michigan Chapter, and attorney Mary Massaron Ross.

The library expenses and subscriptions for the Traverse City office are \$29,000.00. Justice Weaver informs me that she agrees that approximately \$28,000.00 of that amount can and will be cut. Travel, lodging and food expenses for that office are approximately \$11,000.00. Hence, the total annual cost of the Traverse City office is under \$80,000.00.

This is a far-cry from the \$425,000.00 that was used as the basis to close the Detroit and Traverse City offices last November.

#### IN CONCLUSION

If closing the Detroit and Traverse City offices and moving Justices to Lansing constituted a significant cost savings, one might argue that it makes sense to force out loyal, longtime staff. It might be reasonable to leave the Detroit offices vacant and unused. One might argue that it makes sense to require people from Southeast Michigan who have business to discuss with the Chief Justice to travel to Lansing, even though the Chief also would have to travel to Lansing from Southeast Michigan for the meeting. It might make sense to deprive the schools and other organizations and the people in Northern Michigan of the value of the Supreme Court Justice in Traverse City. But given the facts as we now know them, there would be no savings to the taxpayers to close the Detroit offices. And there would be only a small cost to leave the Traverse City office open, as it has been these many years.

For these reasons, the Court's offices in Detroit and Traverse City should remain open.