STATE OF MICHIGAN
IN THE SUPREME COURT

LIBERTY HILL HOUSING CORP.,

Petitioner-Appellant,

Supreme Court No. 131531
Court of Appeals No. 258752
MTT Docket No. 298536

v.

CITY OF LIVONIA,

Respondent-Appellee

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AMICUS BRIEF of PHEASANT RING a/k/a HOMES FOR AUTISM

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. IDENTIFICATION OF HOMES FOR AUTISM 1

III. APPLICABILITY of *WEXFORD MEDICAL GROUP.* 1

IV. *Pheasant Ring* ADDRESSES "occupied" PORTION OF STATUTE 3

V. MICHIGAN CONSTITUTION SUPPORTS CHARITABLE ORGANIZATIONS AS DESCRIBED IN *PHEASANT RING*

VI. SUMMARY 4

TABLE OF AUTHORITIES

Cases

Pheasant Ring v Waterford Township, 272 Mich App 436;
726 NW 2d 741 (2006).....passim

Wexford Medical Group v City of Cadillac, 474 Mich 192, 199;
713 NW 2d 734 (2006)..... 2

Other Authorities

Michigan Constitution, article VIII, section 8, 1963 4

Public Act No. 469 of 1966, specifically MSA 7.7(4L) which is 211 Section 7(o).....2

I. INTRODUCTION

In a recent order of this court, it requested briefing as to the correctness of the decision of the Michigan Court of Appeals in *Pheasant Ring v Waterford Township*, 272 Mich App 436, 726 NW 2d 741 (2006). Pheasant Ring, now known as, Homes for Autism (Homes for Autism) has only recently become aware of this court's request for briefing. In light of the court request, it is respectfully submitted, that Homes for Autism be permitted to submit a brief in support of the *Pheasant Ring* decision.

II IDENTIFICATION OF HOMES FOR AUTISM

Homes for Autism is a charitable corporation under section 501 (c) (3) of the Internal Revenue Code. The clients who reside in the residences of Homes for Autism are selected in collaboration with the Community Mental Health Agencies in their respective counties. A care provider provides 24 hour services for handling the immediate needs of the clients in the residence. Homes for Autism does not provide care for those who reside in its homes. It has been the experience of the Community Mental Health Agencies that by having a client reside in the residence of Homes for Autism, that they have thereby decreased the need for maintaining such a residence and thus improve the living situation of the client.

Homes for Autism currently has five homes with disabled adults residing in the homes, at least one in each home suffers from autism. The modus operandi of Homes for Autism was suggested by one of the Community Mental Health Agencies. In other

words, it was a Community Mental Health Agency that suggested that Homes for Autism own the home without being a care provider.

Evidence was also introduced to establish that the parents of the disabled adults, residing in the homes, relied upon Homes for Autism because of their age, inter alia. If Homes for Autism did not provide the home, then the community mental health agency would have to provide such home. Therefore, Pheasant Ring/Homes for Autism "lessened the burden of government."

The above information is provided for the court to be aware of the factual circumstances that may be unique to Homes for Autism but which was made known to the administrative law judge during the course of the proceedings and was of record before the Michigan Tax Tribunal.

III. APPLICABILITY of *WEXFORD MEDICAL GROUP.*

Pheasant Ring clearly follows and falls within the judicial precedent of this court. In the case, *Wexford Medical Group v City of Cadillac,* 474 Mich 192, 199; 713 NW 2d 734 (2006), this Court laid out clear criteria for properly complying with MCL 211.7o, which creates an ad valorem property tax exemption for charitable institutions. A substantial portion of the *Pheasant Ring* decision describes in great detail how *Pheasant Ring* complied with the statute, as interpreted by this Court. *Pheasant Ring* is not contrary to 100 year old Michigan Jurisprudence. Rather it is consistent with the *Wexford*

decision of this Court, which was handed down in the same year that the Michigan Court of Appeals decided *Pheasant Ring*.

IV. Pheasant *Ring* ADDRESSES "occupied" PORTION OF STATUTE

Waterford Township challenged whether Pheasant Ring occupied property in order to comply with the statute. The Michigan Court of Appeals gave a very pragmatic answer as to that question. Because Homes for Autism allows disabled adults to reside in its homes, it does not require that a portion of the home be used as office space for it. In the judicial precedent that Waterford Township cited to the Michigan Court of Appeals, if the property was utilized as an office, or at least a portion of it, then there would be full compliance with the "occupied" provision of the statute. However, upon reflection, this is diametrically opposed to the disabled adults fully utilizing the home.

Should Homes for Autism occupy the basement to satisfy an "occupancy" test? Should Homes for Autism occupy a room to satisfy an "occupancy" test? Should Homes for Autism occupy a closet to satisfy an "occupancy" test? Should Homes for Autism occupy a drawer in a cabinet to satisfy an "occupancy" test? Obviously, such usage would not be to the benefit of the disabled adults using the home. As Michigan Court of Appeals stated on page 4 of its *Pheasant Ring* opinion "a proper test is whether the entire property was used in a manner consistent with the purposes of the owning institution."

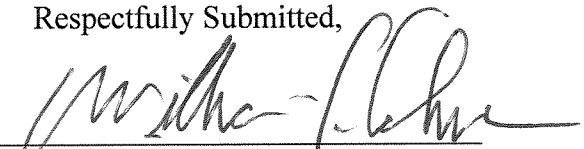
V. MICHIGAN CONSTITUTION SUPPORTS CHARITABLE ORGANIZATIONS AS DESCRIBED IN *PHEASANT RING*

The Michigan Constitution, article VIII, section 8, 1963 states "Institutions, programs and services for the care, treatment, education or rehabilitation for those inhabitants, who are physically, mentally or otherwise seriously handicapped, shall always be fostered and supported." The decision in *Pheasant Ring* identifies services which lessen the burden of government and under the Michigan Constitution should be fostered and supported.

VI. SUMMARY

The Michigan Court of Appeals decision *Pheasant Ring* outlines criteria that permits an organization to lessen the burdens of government and therefore should be exempt from the tax rolls. *Pheasant Ring* is critical to those charitable organizations that provide homes for disabled adults. *Pheasant Ring* is correctly decided.

Respectfully Submitted,



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