

STATE OF MICHIGAN

IN THE SUPREME COURT

Appeal from the Michigan Court of Appeals
(Redford, P.J., and O'Brien and Feeney, J.J.)

MARK A. HACKEL,

Plaintiff/Counterdefendant-Appellee,

MSC Docket No. 166363

v.

Court of Appeals Docket No. 362775

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Macomb County Circuit Court
LC No. 2018-001252-CZ
Honorable James M. Maceroni

Defendant/Counterplaintiff-Appellant.

**APPELLANT MACOMB COUNTY BOARD OF COMMISSIONERS'
APPENDIX TO SUPPLEMENTAL BRIEF**

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TAB 1

STATE OF MICHIGAN
COURT OF APPEALS

MARK A. HACKEL,

Plaintiff/Counterdefendant-Appellee,

v

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Defendant/Counterplaintiff-Appellant.

UNPUBLISHED

October 5, 2023

No. 362775

Macomb Circuit Court

LC No. 2018-001252-CZ

Before: REDFORD, P.J., and O’BRIEN and FEENEY, JJ.

PER CURIAM.

In this action seeking declaratory relief and a writ of mandamus, defendant challenges the trial court’s order granting the motion for summary disposition of plaintiff, Mark A. Hackel, acting in his official capacity as Macomb County Executive, and denying defendant’s motion for summary disposition regarding defendant’s counterclaim. We affirm.

I. BACKGROUND FACTS AND PROCEDURAL HISTORY

The sole issue in this appeal is factually undisputed and legal in nature—does defendant, the legislative branch of government in Macomb County, have the authority to pass an ordinance requiring plaintiff, the executive branch of government in Macomb County, to give defendant access to the County’s financial software. The dispute arose in 2017, when defendant requested such access and plaintiff refused. Defendant sought access to the software because it believed that would enable a more efficient way for it to consider the proposed annual budget and appropriations ordinance prepared by plaintiff. In response to being denied access, defendant passed Ordinance 2017-04, § 10(H), which stated: “The Director of Legislative Affairs [(DLA)] for [defendant] shall be given real-time, read-only access to the financial software program the County uses.” Plaintiff refused to comply with the ordinance, believing it violated the county charter.

Although plaintiff initiated this litigation regarding a different dispute, the only issue on appeal relates to defendant’s counterclaims in which defendant sought a declaratory judgment regarding the ordinance’s validity and enforceability, and a writ of mandamus directing plaintiff to comply with that ordinance. The parties exchanged motions for summary disposition, each

arguing that the Charter and relevant state law supported their positions. Defendant moved for summary disposition under MCR 2.116(C)(9), (10), and (I)(2). Plaintiff moved for summary disposition under MCR 2.116(C)(8) and (10). The trial court ultimately agreed with plaintiff, citing Macomb County Charter, Article III, § 3.5(a), which authorized plaintiff to control the Finance and Information Technology (IT) Departments of the County. Those departments, in turn, managed and regulated access to the County’s financial software, OneSolution. The trial court dismissed the counterclaim

because the Ordinance unlawfully infringes on the [plaintiff]’s Charter power to “supervise, coordinate, direct, and control” the Finance Department by purporting to prescribe access to the County’s financial software system prohibited by the County’s IT Policy, [defendant]’s motion for summary disposition is properly denied, and [plaintiff]’s motion for summary disposition is properly granted.

This appeal followed.

II. STANDARDS OF REVIEW

In *Warren City Council v Buffa*, ___ Mich App ___, ___; ___ NW2d ___ (2023) (Docket No. 365488); slip op at 6, this Court set forth many of the standards of review relevant in the present case:

We review de novo a trial court’s decision on a motion for summary disposition in a declaratory relief action. *League of Women Voters of Michigan v Sec’y of State*, 339 Mich App 257, 272; 981 NW2d 538 (2021). But the court’s grant or denial of declaratory relief is subject to an abuse of discretion standard of review. *Reed-Pratt v Detroit City Clerk*, 339 Mich App 510, 516; 984 NW2d 794 (2021).

We review for an abuse of discretion a trial court’s decision regarding a writ of mandamus. *Citizens Protecting Michigan’s Constitution v Sec’y of State*, 503 Mich 42, 59; 921 NW2d 247 (2018). However, whether a plaintiff has a clear legal right, and a defendant has a clear legal duty to perform, are questions of law subject to de novo review. *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016) (citation omitted).

The interpretation of a municipal charter presents a question of law that we review de novo. *Warren City Council v Fouts*, ___ Mich App ___; ___ NW2d ___ (Docket No. 361288, issued December 29, 2022), slip op at 6.

In *Hackel v Macomb Co Comm*, 298 Mich App 311, 318; 826 NW2d 753 (2012), this Court explained:

County charter provisions are subject to the same rules of interpretation as are statutes. *Wayne Co [v Wayne Co Retirement Comm]*, 267 Mich App [230,] 244[; 704 NW2d 117 (2005)]. When the language of a charter provision is unambiguous, it controls. *Id.* at 243. The framers of the charter and the people who voted to adopt it, “must be presumed to have intended that the provision be construed as it reads.”

Woods v Bd of Trustees of the Policemen & Firemen Retirement Sys of Detroit, 108 Mich App 38, 43; 310 NW2d 39 (1981). When construing a statute, every word should be given meaning in order to avoid a construction that would render any part of the statute surplusage or nugatory. *Lapeer Co Abstract & Title Co v Lapeer Co Register of Deeds*, 264 Mich App 167, 172; 691 NW2d 11 (2004).

“This Court also reviews de novo questions of statutory construction, with the fundamental goal of giving effect to the intent of the Legislature.” *McKenzie v Dep’t of Corrections*, 332 Mich App 289, 296; 957 NW2d 341 (2020) (quotation marks and citation omitted). “[A]n abuse of discretion occurs only when the trial court’s decision is outside the range of reasonable and principled outcomes.” *Zwiker v Lake Superior State Univ*, 340 Mich App 448, 474; 986 NW2d 427 (2022) (quotation marks and citation omitted).

“MCR 2.116(C)(8) mandates summary disposition if the opposing party has failed to state a claim on which relief can be granted.” *Veritas Automotive and Machinery, LLC v FCA Int’l Operations, LLC*, 335 Mich App 602, 607; 968 NW2d 1 (2021) (quotation marks and citation omitted). “A motion brought under MCR 2.116(C)(8) should be granted only where the complaint is so legally deficient that recovery would be impossible even if all well-pleaded facts were true and construed in the light most favorable to the nonmoving party.” *Elia Cos, LLC v Univ of Mich Regents*, 335 Mich App 439, 446; 966 NW2d 755 (2021). “Only the pleadings may be considered when deciding a motion under MCR 2.116(C)(8).” *Elia Cos, LLC*, 335 Mich App at 446. “We review de novo the trial court’s application of the court rules” *Sandstone Creek Solar, LLC v Benton Twp*, 335 Mich App 683, 712; 967 NW2d 890 (2021).

“When deciding a motion under MCR 2.116(C)(9), a trial court considers the pleadings alone, accepting as true all well-pleaded allegations, to assess the sufficiency of a defendant’s defenses.” *Vayda v Lake Co*, 321 Mich App 686, 692; 909 NW2d 874 (2017). “Summary disposition under MCR 2.116(C)(9) is proper when the defendant’s pleadings are so clearly untenable that as a matter of law no factual development could possibly deny the plaintiff’s right to recovery.” *Id.* at 693 (quotation marks and citation omitted).

“This Court [] reviews de novo decisions on motions for summary disposition brought under MCR 2.116(C)(10).” *Pace v Edel-Harrelson*, 499 Mich 1, 5; 878 NW2d 784 (2016). A motion for summary disposition under MCR 2.116(C)(10) “tests the factual sufficiency of the complaint” *Joseph v Auto Club Ins Ass’n*, 491 Mich 200, 206; 815 NW2d 412 (2012). “In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion.” *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). Summary disposition is proper where there is no “genuine issue regarding any material fact.” *Id.* “A genuine issue of material fact exists when reasonable minds could differ on an issue after viewing the record in the light most favorable to the nonmoving party.” *Auto-Owners Ins Co v Campbell-Durocher Group Painting & General Contracting, LLC*, 322 Mich App 218, 224; 911 NW2d 493 (2017) (quotation marks and citation omitted).

“It is proper to grant summary disposition to the opposing party under MCR 2.116(I)(2) if it appears to the court that that party, rather than the moving party, is entitled to judgment.” *Empire*

Iron Mining Partnership v Tilden Twp, 337 Mich App 579, 586; 977 NW2d 128 (2021) (quotation marks and citation omitted).

III. ANALYSIS

In *Hackel*, 298 Mich App at 316-318, another case involving the same parties, this Court described the interactions between the Michigan Constitution, state law, and the Macomb County Charter:

“Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law The law may permit the organization of county government in form different from that set forth in this constitution” Const 1963, art 7, § 2. Pursuant to this authority, the Legislature enacted the charter counties act, MCL 45.501 *et seq.* *Lucas v Wayne County Election Commission*, 146 Mich App 742, 749; 381 NW2d 806 (1985). MCL 45.514(1) provides, in relevant part:

A county charter adopted under this act shall provide for all of the following:

- (a) In a county having a population of less than 1,500,000, for a salaried county executive, who shall be elected at large on a partisan basis, and for the county executive’s authority, duties, and responsibilities. In a county having a population of 1,500,000, or more, a county charter adopted under this act shall provide for a form of executive government described and adopted under [MCL 45.511a].
- (b) The election of a legislative body to be known as the county board of commissioners, . . . and for their authority, duties, [and] responsibilities

MCL 45.511a(8) prescribes the powers and duties to be granted to the county executive in a county having a population of 1.5 million or more. But in counties that have a population of fewer than 1.5 million, MCL 45.514(1) unambiguously says that the county charter shall provide for the county executive’s authority, duties, and responsibilities and for the county board of commissioners’ authority, duties, and responsibilities. MCL 45.514(1) thus represents the Legislature’s decision “to delegate the function of allocating power in a charter county to the charter commission in the first instance, subject to final approval by the affected voters.” *Oakland County Comm’rs v Oakland County Executive*, 98 Mich App 639, 650; 296 NW2d 621 (1980).

Therefore, because Macomb County has a population of less than 1.5 million, this Court must look to the provisions of the Macomb County Charter to determine the manner in which that county’s voters chose to allocate the respective powers of the Executive and the Commission. *Id.* at 649-650. [Alterations in original.]

As noted in this Court’s previous opinion, attention must be placed on the pertinent provisions of the Macomb County Charter. Under Macomb County Charter, Article IV, § 4.1, the adoption of the Charter created the Commission, defendant, in whom “the legislative power of the County is vested[.]” The Charter lists specific powers of defendant, including that it may “[a]dopt, amend, or repeal ordinances or resolutions;” Macomb County Charter, § 4.4(a); “[a]ppropriate funds, levy taxes, fees, and other charges, and authorize borrowing as provided by this Charter and applicable laws;” Macomb County Charter, § 4.4(c); and “[e]xercise any power granted by law to charter or general law counties unless otherwise provided by this Charter;” Macomb County Charter, § 4.4(j). The Charter specified that defendant “shall have and may exercise all legislative powers which this Charter could specifically enumerate as provided by the Constitution and the laws of the State of Michigan.” Macomb County Charter, § 4.5.

As for plaintiff, Macomb County Charter, § 3.1, states: “The office of County Executive is created and the executive power of the County is vested in the Executive, who is the head of the executive branch of County government.” Plaintiff’s specific powers are enumerated in Macomb County Charter, § 3.5 under which plaintiff has, among other things, the “authority, duty, and responsibility to: [s]upervise coordinate, direct, and control all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law;” Macomb County Charter, § 3.5(a); “[d]ischarge the duties granted the Executive by this Charter, law, or ordinance, and exercise all incidental powers necessary or convenient for the discharge of the duties and functions specified in this Charter or lawfully delegated to the Executive;” Macomb County Charter, § 3.5(c); and “[s]ubmit to the Commission a proposed annual budget;” Macomb County Charter, § 3.5(j). Plaintiff is also required to “file a report with [defendant] on the financial condition of the County at least quarterly.” Macomb County Charter, § 3.7. Unlike defendant, the Charter contains no provision providing plaintiff with unenumerated residual powers.

Analysis of the provisions related to proposing, passing, and implementing a budget and appropriations for Macomb County each year, the Macomb County Charter, § 8.6.1, required plaintiff to “prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies.” After preparing the budget, plaintiff must “transmit the comprehensive balanced budget for the next fiscal year to [defendant] at least 90 days before the next fiscal year begins.” *Id.* The document sent to defendant must include “the proposed appropriations ordinance containing the information required by law, and any information required by [defendant], law, or ordinance.” *Id.* Defendant, in turn, must, “[b]efore the beginning of each fiscal year . . . adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.” Macomb County Charter, § 8.7. The Charter also created a “department of Finance,” which shall “[e]ffectuate the provisions of Article VIII of this Charter; and . . . [a]dminister financial affairs of the County in accordance with the law.” Macomb County Charter, § 7.4.

Defendant sought mandamus to compel plaintiff to obey its ordinances requiring plaintiff to provide access to the financial software program. Mandamus “is an extraordinary remedy,” and whether such “a writ issues is within the discretion of the court.” *Warren City Council*, ___ Mich App at ___; slip op at 12. In *Warren City Council*, ___ Mich App at ___; slip op at 12, this Court provided a succinct yet detailed review of the law related to requests for mandamus:

Specifically, the [party seeking mandamus] has the burden to show:

(1) a clear legal right to the act sought to be compelled; (2) a clear legal duty by the [opposing party] to perform the act; (3) that the act is ministerial, leaving nothing to the judgment or discretion of the [opposing party]; and (4) that no other adequate remedy exists. [*Twp of Casco v Sec’y of State*, 472 Mich 566, 621; 701 NW2d 102 (2005) (YOUNG, J., concurring in part).]

In a mandamus action, “a ‘clear, legal right’ is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.” *Taxpayers for Michigan Constitutional Government v Dep’t of Technology, Mgmt, & Budget (On Remand)*, ___ Mich App ___, ___ NW2d ___ (Docket No. 334663, issued December 22, 2022), slip op at 9 (citations omitted). . . .

Mandamus relates to the duties of public officials. *Vayda v County of Lake*, 321 Mich App 686, 700; 909 NW2d 874 (2017). A clear legal duty is asserted to compel the enforcement of an act by a public official. *Teasel v Dep’t of Mental Health*, 419 Mich 390, 415 n 13; 355 NW2d 75 (1984). . . .

“A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.” *Taxpayers for Michigan Constitutional Government v State of Michigan, Dep’t of Technology, Mgmt, & Budget*, 508 Mich 48, 82; 972 NW2d 738 (2021) (quotation marks and citation omitted).

Defendant also requested declaratory relief in the form of a judgment that Ordinance 2017-04, § 10(H) is binding and enforceable. “‘In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted.’” *Farish v Dep’t of Talent & Economic Dev*, 336 Mich App 433, 452; 971 NW2d 1 (2021), quoting MCF 2.605(A)(1). “An ‘actual controversy’ under MCR 2.605(A)(1) exists when a declaratory judgment is necessary to guide a [party]’s future conduct in order to preserve legal rights. The requirement prevents a court from deciding hypothetical issues.” *Int’l Union UAW v Central Mich Univ Trustees*, 295 Mich App 486, 495; 815 NW2d 132 (2012). “The essential requirement of an ‘actual controversy’ under the rule is that the [party seeking the relief] pleads and proves facts that demonstrate an adverse interest necessitating the sharpening of the issues raised.” *Id.* (quotation marks and citation omitted).

Both defendant’s request for declaratory relief and mandamus rely on the validity and enforceability of Ordinance 2017-04, § 10(H). “In an action seeking mandamus and declaratory relief, the [party seeking the relief] bears the burden of proof.” *Davis v Secretary of State*, ___ Mich App ___, ___; ___ NW2d ___ (2023) (citation omitted) (Docket No. 362841); slip op at 8. The parties neither dispute that defendant generally has the power to pass ordinances, Macomb County Charter, § 4.4(a), nor that defendant adopted this ordinance. The question central to this appeal is whether the ordinance requiring plaintiff to give defendant’s DLA access to OneSolution,

is invalid as argued by plaintiff. The parties disagree regarding whether the Macomb County Charter and a relevant state statute, the Uniform Budgeting and Accounting Act (UBAA), MCL 141.421 *et seq.*, render the ordinance invalid.

Generally, this Court “presumes that a challenged ordinance is valid.” *Houdek v Centerville Twp*, 276 Mich App 568, 573; 741 NW2d 587 (2007). However, a county ordinance “cannot provide for greater or lesser rights than those expressed in the charter.” *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 251; 704 NW2d 117 (2005), citing *Bivens v City of Grand Rapids*, 443 Mich 391, 400-401; 505 NW2d 239 (1993). In that respect, “[a]n ordinance enacted by the governing body of” a municipal unit “is valid only if it is consistent with the powers conferred by the state in its constitution and statutes, and if it falls within the scope of authority delegated by the electorate in the [] charter.” *Bivens*, 443 Mich at 397. Additionally, “[c]harter counties are subject to restrictions that are imposed by general law,” including “those restrictions [] imposed by the UBAA.” *Macomb Co Prosecutor v Macomb Co Executive*, 341 Mich App 289, 299; 989 NW2d 864 (2022) (quotation marks and citation omitted).

This dispute requires interpretation of the Macomb County Charter and the UBAA to determine whether the ordinance passed by defendant is “consistent with the powers conferred” upon defendant by the Charter provisions and cited statute. *Bivens*, 443 Mich at 397. “County charter provisions are subject to the same rules of interpretation as are statutes.” *Hackel*, 298 Mich App at 318.

This issue requires us to engage in statutory interpretation. “When construing a statute, this Court’s primary goal is to give effect to the intent of the Legislature. We begin by construing the language of the statute itself. When the language is unambiguous, we give the words their plain meaning and apply the statute as written.” [*Rowland v Washtenaw County Rd Comm’n*, 477 Mich 197, 202; 731 NW2d 41 (2007)] (citation omitted). “We must examine the statute as a whole, reading individual words and phrases in the context of the entire legislative scheme.” *Ally Fin, Inc v State Treasurer*, 502 Mich 484, 493; 918 NW2d 662 (2018) (quotation marks and citation omitted). “In doing so, we consider the entire text, in view of its structure and of the physical and logical relation of its many parts.” *Id.* (quotation marks and citation omitted). Proper statutory interpretation requires: (1) reading the statute as a whole, (2) reading its words and phrases in the context of the entire legislative scheme, (3) while considering both the plain meaning of the critical words and phrases along with their placement and purpose within the statutory scheme, and (4) interpreting the statutory provisions in harmony with the entire statutory scheme. *Bush v Shabahang*, 484 Mich 156, 167; 772 NW2d 272 (2009). “If the language is clear and unambiguous, the plain meaning of the statute reflects the legislative intent and judicial construction is not permitted.” *Deruiter v Byron Twp*, 325 Mich App 275, 283; 926 NW2d 268 (2018) (citation omitted)[, rev’d on other grounds 505 Mich 130 (2020)]. “[W]e must give effect to every word, phrase, and clause and avoid an interpretation that would render any part of the statute surplusage or nugatory.” *South Dearborn Environmental Improvement Ass’n, Inc v Dep’t of Environmental Quality*, 502 Mich 349, 361; 917 NW2d 603 (2018) (quotation marks and citation omitted).

[*Nyman v Thomson Reuters Holdings, Inc*, 329 Mich App 539, 544; 942 NW2d 696 (2019).]

Analysis of the relevant provision of the Macomb County Charter establishes that § 3.5(a) unambiguously provides the power to control access to OneSolution, the financial software at issue, to plaintiff, the county executive who is the head of the executive branch of county government. Beginning with the language of the Macomb County Charter, as we must, *Nyman*, 329 Mich App at 544, § 3.5(a) states that plaintiff “has the authority, duty, and responsibility to . . . [s]upervise, coordinate, direct, and control all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law[.]” Separating this relatively dense provision into segments helps clarify its meaning. Initially, it plainly contemplates providing a specific “authority, duty, and responsibility” to plaintiff. Pertinently, the provision gives plaintiff the authority to “[s]upervise, coordinate, direct, and control all County departments . . . facilities, operations, and services,” with some identified exceptions. *Id.* The first exception is that plaintiff’s authority does not extend to county “departments headed by Countywide Elected Officials other than the Executive[.]” *Id.* The second exception provides that plaintiff’s authority is limited “as otherwise provided by this charter or law[.]” *Id.*

Article VI of the Macomb County Charter discusses all of the departments in Macomb County headed by elected officials. Macomb County Charter, art VI. These include the sheriff, the prosecuting attorney, the county clerk, register of deeds, treasurer, and commissioner of public works. Macomb County Charter, §§ 6.1 to 6.5. Notably, the Finance and IT Departments are not included as one of the departments headed by an elected official. *Id.* As a result, under Macomb County Charter, § 3.5(a) plaintiff has the power to “[s]upervise, coordinate, direct, and control” the Finance and IT departments of Macomb County. Further, under Macomb County Charter, § 7.4, the Finance Department must “[e]ffectuate the provisions of Article VIII of this Charter; and . . . [a]dminister financial affairs of the County in accordance with law.” It is undisputed that the Finance Department manages OneSolution, because it is the financial software used for the entire County. Moreover, while the Charter does not address the IT Department, there is no dispute it controls cybersecurity for the County, which includes managing access to government software.

While the trial court addressed dictionary definitions to define terms in Macomb County Charter, § 3.5(a), it is unclear whether such is necessary. The words “[s]upervise, coordinate, direct, and control,” *id.*, have plain meanings which comport with plaintiff exercising control over which government officials can access OneSolution and to what extent. In the simplest terms, the Finance Department manages OneSolution, and plaintiff “controls” the Finance Department. The IT Department regulates access to OneSolution via cybersecurity policies, and plaintiff “controls” the IT Department. There is no possible meaning of “control,” as used in Macomb County Charter, § 3.5(a), which would not comport with plaintiff’s authority to supervise, coordinate, and direct the Finance Department and the IT Department regarding how to manage and regulate access to OneSolution. Indeed, although in a different context, this Court has stated that one of the hallmarks of having “control” is the “right to exclude others” *Breakley v Dep’t of Treasury*, 324 Mich App 515, 526 n 8; 922 NW2d 397 (2018).

This, of course, is not the end of the analysis, because plaintiff’s authority to control the Finance and IT Departments is not without limits. As noted above, plaintiff’s authority is curtailed

when “otherwise provided by this Charter or law[.]” *Id.* Therefore, if plaintiff’s control over access to OneSolution violates the Macomb County Charter or other state law, then it is impermissible under the clear and unambiguous exception in Macomb County Charter, § 3.5(a). Defendant contends such is the case here because the Charter and the UBAA regulate plaintiff’s and defendant’s roles in the budget-making process which entitles defendant to pass an ordinance requiring access to OneSolution. Defendant is incorrect.

Conveniently, this Court recently discussed the various charter provisions at issue when considering the Macomb County budget-making process in *Macomb Co Prosecutor*, 341 Mich App at 306:

County Charter § 3.5(j) provides that the Executive has the authority to “[s]ubmit to the Commission a proposed annual budget.” In addition, § 3.9 specifically provides the Executive with a line-item veto over appropriations:

Unless prohibited by law, the Executive may veto an ordinance, a line item of an ordinance appropriating money, or a resolution having the effect of law or approving a contract, by transmitting to the Commission notice of the veto and reasons for the veto. If the Executive fails to exercise the veto within 10 business days after receipt of the ordinance by the Executive . . . the action of the Commission takes effect.

Sections 4.4(a) and (c) provide that the Board has the authority to, respectively, “[a]dopt, amend, or repeal ordinances or resolutions” and “[a]ppropriate funds, levy taxes, fees, and other charges.” However, § 6.6.4(c) provides that “[t]he existence, organization, qualifications, powers, and duties of the Countywide Elected Officials and [certain] departments . . . shall be subject to . . . [a]ll personnel, budgeting, and expenditure recommendations of the Executive as approved by the Commission.” Article VIII of the County Charter governs the financial management of the county. Section 8.6.1 provides as follows:

The Executive shall prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies. The Executive shall transmit the comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins. The comprehensive balanced budget prepared and recommended by the Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, and any information required by the Commission, law, or ordinance.

Section 8.7, which is titled “Adoption of Line Item Operating Budget,” provides as follows:

Before the beginning of each fiscal year of the County, the Commission shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.

In analyzing how these charter provisions interact with one another, this Court concluded defendant “bears primary responsibility for the final budget.” *Macomb Co Prosecutor*, 341 Mich App at 307. Notably, while plaintiff must prepare and present a proposed budget and appropriations ordinance, defendant has the ultimate responsibility to actually “appropriate funds” and “adopt a balanced line item operating budget and an appropriations ordinance each fiscal year.” *Id.* (quotation marks omitted), citing Macomb County Charter, §§ 3.5(j), 4.4(c), 8.6.1, and 8.7. Therefore, defendant has the principal role in determining the final budget of Macomb County.

Defendant attempts to conflate this role in the process with an inherent right to regulate how plaintiff must interact with defendant while engaged in making the budget. The actual language in the Charter does not support defendant’s argument. As noted, each year, plaintiff must prepare and “transmit” a proposed budget and appropriations ordinance to defendant. Macomb County Charter, § 8.6.1. Along with those items, plaintiff must also “transmit to” defendant certain “information required by law” *Id.* Defendant’s argument in this appeal focuses on the last line of Macomb County Charter, § 8.6.1, which states plaintiff must also “transmit . . . any information required by [defendant], law, or ordinance.” Plaintiff’s responsibility to send a proposed budget to defendant also appears in Macomb County Charter, § 3.5(j). Once in possession of the proposed budget and appropriations ordinance, defendant has the power to “adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.” Macomb County Charter, § 8.7. This responsibility belonging to defendant comports with its power under Macomb County Charter, § 4.4(a), to adopt ordinances, and under § 4.4(c) to appropriate funds.

As noted, defendant’s argument draws this Court’s attention to the last line of Macomb County Charter, § 8.6.1 which entitles defendant to information it requires to consider plaintiff’s proposed budget and appropriations ordinance. Defendant asserts that it has determined that it “requires” access to OneSolution to perform its budget-making duties, and has authority to direct plaintiff to relinquish it. *Id.* Defendant, however, confuses its right to information with a right to access the information in any manner and by any means it chooses.

Macomb County Charter, § 8.6.1 clearly and unambiguously states that plaintiff must “transmit” to defendant the information required by defendant to consider the budget and appropriations ordinance. The Charter does not define the word “transmit,” so we must give the word its plain meaning. *Nyman*, 329 Mich App at 544. “This Court may rely on a dictionary definition to give an otherwise undefined word its plain and ordinary meaning.” *Hackel*, 298 Mich App at 319 n 2. “Transmit” means “to send or convey from one person or place to another.” *Merriam-Webster’s Collegiate Dictionary* (11th ed).

Macomb County Charter, § 8.6.1 entitles defendant to receive information it requires to determine whether to adopt plaintiff’s proposed budget and appropriations ordinance. However, the Charter specifically states that plaintiff has the responsibility to “transmit” the information to

defendant. *Id.* This means plaintiff must send or convey the required information to defendant. Simply put, Macomb County Charter, § 8.6.1 does not contemplate defendant accessing plaintiff's systems and gathering the information for itself. The Charter gives defendant the right to receive the information, but such information must be transmitted by plaintiff. *Id.* Therefore, under Macomb County Charter, § 3.5(a), plaintiff has the power to regulate access to OneSolution through its express power to control the Finance and IT Departments unless limited by another provision of the Charter. *Id.* In this case, under the Charter, plaintiff may lawfully exclude defendant from accessing OneSolution and plaintiff's exercise of its authority under the Charter does not violate defendant's right to receive information or interfere with its duty to pass a budget and appropriations ordinance.

Defendant also contends that plaintiff's policy of excluding defendant from accessing OneSolution fell outside of Macomb County Charter, § 3.5(a), because it violated state law, MCL 141.434(5). As with the Charter provisions, our review of a statute begins with the language of the statute. *Nyman*, 329 Mich App at 544. MCL 141.434(5) states in pertinent part: "The chief administrative officer shall furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget." The substance of the statute telegraphs a nearly identical analysis as that applicable to Macomb County Charter, § 8.6.1.

Like the Charter, MCL 141.434(5) provides defendant the right to have information it requires and imposes a specific duty upon plaintiff to "furnish" defendant the information defendant requires. The only potential difference between the two, is that the Charter uses the term "transmit," Macomb County Charter, § 8.6.1, while the statute uses the word "furnish," MCL 141.434(5). The word "furnish" is not defined in the UBAA. "If a word in a statute is undefined, it must be given its plain and ordinary meaning, and it is proper to consult a dictionary for definitions." *Champine v Dep't of Transportation*, 509 Mich 447, 453; 983 NW2d 741 (2022) (quotation marks, citation, and alteration omitted). "Furnish" means "to provide with what is needed." *Merriam-Webster's Collegiate Dictionary* (11th ed). The word used in the statute, then, has effectively the same meaning as the one used in the Charter. Consequently, the analysis is the same. Defendant has a right to information, and plaintiff has a duty to send the information to defendant. Defendant's entitlement to information under MCL 141.434(5) does not contemplate accessing the information in whatever manner defendant chooses. Instead, the language in the statute specifically contemplates how defendant will receive the information—from plaintiff. *Id.* Therefore, because plaintiff's regulation of access to OneSolution via its control over the Finance and IT Departments does not violate defendant's rights under MCL 141.434(5), the exception to plaintiff's authority in Macomb County Charter, § 3.5(a), is not applicable under these circumstances.

Defendant offers several arguments to avoid the conclusion reached by the trial court and required by law. Defendant contends that affirming the trial court is improper because doing so will allow plaintiff to "control" defendant in its budget-making role which is not permitted because defendant is a county governmental unit "headed by Countywide Elected Officials other than the Executive[.]" *Id.* This argument is flawed because it is premised on defendant's incorrect assumption that it has the "right" to access OneSolution. Defendant simply lacks such a right. Moreover, plaintiff's decision to exclude defendant from accessing OneSolution is not "controlling" defendant in the budget-making process. Indeed, plaintiff is not controlling defendant's decision regarding what information defendant requires for consideration of the

budget proposed by the executive. Rather, plaintiff is controlling the Finance and IT Departments which manage and regulate access to OneSolution. Defendant provides no allegation that plaintiff has wrongfully limited the information it transmits or furnishes to defendant when defendant requests the information it requires. Defendant once again conflates access to information with the right to information. Defendant does not, under the Charter, have the right to access information in whatever manner by any means it sees fit. Instead, it has the right to have information provided by plaintiff. Consequently, plaintiff's regulation of access to OneSolution is not a manner of controlling defendant, which would remove it from the authority provided to plaintiff under Macomb County Charter, § 3.5(a).

Defendant also argues that the trial court's decision that plaintiff has the authority to regulate access to OneSolution improperly inferred a power possessed by plaintiff under the Charter. Defendant is correct the Charter provides only express powers to plaintiff. Macomb County Charter, § 3.5. Meanwhile, the Charter specifically states the powers granted to defendant under the Charter are not exclusive, Macomb County Charter, § 4.5, but defendant also has the authority to "[e]xercise any power granted by law to charter or general law counties unless otherwise provided by this Charter," Macomb County Charter, § 4.4(j). This Court acknowledged as much in *Hackel*, 298 Mich App at 320-321. However, the above analysis does not rely on inferring that plaintiff has a power on the basis of various charter provisions. On the contrary, it is plain under Macomb County Charter, § 3.5(a) that plaintiff has the *express* power to control the Finance and IT Departments, which in turn manage and regulate access to OneSolution. Defendant's argument, therefore, lacks merit.

Defendant's reliance on *Hackel* is misplaced entirely. While the opinion references the residual powers provided to defendant in the charter, this Court based its ultimate decision on an express power provided to defendant. *Hackel*, 298 Mich App at 318 ("The Macomb County Charter unambiguously grants to the Commission the discretionary authority to approve contracts."). In that case, plaintiff took the position that an array of provisions found in the Charter implied that it had the power to approve contracts. This Court found that argument lacked merit because, if such power existed by implication, it would nullify defendant's express authority under § 4.4(d) to approve contracts. *Id.* at 323-324. This Court explained that the argument failed "under the doctrine of *expressio unius est exclusio alterius*, or inclusion by specific mention excludes what is not mentioned." *Id.* at 324 (quotation marks and citation omitted). This Court reasoned that, because the charter expressly provided the power to approve contracts to defendant, it did not also impliedly provide the same power to plaintiff. *Id.* at 324-325 ("Accordingly, the charter's expression of the Commission's authority to approve contracts necessarily operates to exclude a comparable Executive power."). Similar analysis applies in this case. Here, plaintiff is the governmental entity with an express power under the Charter. That express power authorizes plaintiff to control the departments that manage and regulate access to OneSolution. Defendant does not have an expressly stated right in the Charter to direct plaintiff to give it access to OneSolution. As explained in *Hackel*, the Charter does not impliedly provide defendant such right.

Next, defendant claims the trial court's decision violated the maxim of statutory interpretation regarding specific and general provisions. Our Supreme Court has stated that "[w]here a statute contains a general provision and a specific provision, the specific provision controls." *TOMRA of North America, Inc v Dep't of Treasury*, 505 Mich 333, 350; 952 NW2d 384 (2020) (quotation marks and citation omitted). Contrary to defendant's argument, the specific

provision at issue is Macomb County Charter, § 3.5(a). Defendant relies on general powers. As discussed above, Macomb County Charter, § 3.5(a), provides express authority to plaintiff to control the two departments that manage and regulate access to OneSolution. Defendant, in turn, relies on its Charter-given right to have information it deems necessary to evaluate and adopt a budget and appropriations ordinance under Macomb County Charter, §§ 8.6.1 and 8.7. Defendant believes that the provisions on which it relies are more specific because it sees this litigation as being about the budget-making process in general. It is not. This litigation is about access to software and who can control the software and access to it. Thus, the more specific provision, when considering the litigation in the correct light, is Macomb County Charter, § 3.5(a), which controls, not defendant's more general right to have information about the proposed budget. *TOMRA of North America*, 505 Mich at 350.

Lastly, defendant claims that, if we affirm the trial court, then we will be rendering nugatory various terms of the Charter and MCL 141.434(5). As noted above, when analyzing a charter or statute, we must “avoid an interpretation that would render any part of the statute surplusage or nugatory.” *Nyman*, 329 Mich App at 544 (quotation marks and citation omitted); *Hackel*, 298 Mich App at 318. More specifically, defendant contends that the trial court's decision rendered nugatory defendant's right to receive information it deems necessary to consider and adopt a budget and appropriations ordinance. Defendant's foundation for this argument, once again, is the presumption that Macomb County Charter, § 8.6.1 and MCL 141.434(5) provide defendant the right to determine how it will access information from plaintiff. As explained above, the Charter and the statute provide no such right to defendant. Instead, they specifically comprehend how defendant will receive the information it requires—it will be “transmitted” or “furnished” by plaintiff. *Id.*; Macomb County Charter, § 8.6.1. Consequently, if we were to read the statute and Charter in the manner suggested by defendant, the terms rendered nugatory would be “transmit” and “furnish,” because defendant would be permitted to bypass that step and obtain the information on its own. Further, defendant would effectively exercise direction and control of plaintiff, powers defendant does not have under the Charter. Because we must avoid such an interpretation, *Nyman*, 329 Mich App at 544, we conclude that the trial court's decision are valid.

To summarize, plaintiff has the express power under Macomb County Charter, § 3.5(a) to manage and regulate access to OneSolution through control over the Finance and IT Departments. Defendant's passage of Ordinance No. 2017-04, § 10(H), which commanded plaintiff to give defendant's DLA access to OneSolution, was an impermissible attempt to exert power defendant does not have and invade plaintiff's power under the Charter. Therefore, because the challenged ordinance “provide[s] for greater” rights to defendant “than those expressed in the charter,” *Wayne Co*, 267 Mich App at 251, and falls outside “the scope of authority delegated” to defendant by the Charter, the ordinance is invalid and unenforceable, *Bivens*, 443 Mich at 397. Considering that defendant's claims for declaratory relief and a writ of mandamus rely on the validity and enforceability of Ordinance 2017-04, § 10(H), those claims, as a matter of law, lack merit. *Warren City Council*, ___ Mich App at ___; slip op at 12; *Farish*, 336 Mich App at 452. The trial court,

therefore, did not err when it denied defendant's motion for summary disposition, granted plaintiff's motion for summary disposition, and dismissed defendant's counterclaims.¹

Affirmed.

/s/ James Robert Redford

/s/ Colleen A. O'Brien

¹ Given our conclusion, plaintiff's arguments about alternative grounds for affirmance have been rendered moot and we decline to consider them. *TM v MZ*, 501 Mich 312, 317; 916 NW2d 473 (2018).

STATE OF MICHIGAN
COURT OF APPEALS

MARK A. HACKEL,

Plaintiff/Counterdefendant-Appellee,

v

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Defendant/Counterplaintiff-Appellant.

UNPUBLISHED

October 5, 2023

No. 362775

Macomb Circuit Court

LC No. 2018-001252-CZ

Before: REDFORD, P.J., and O’BRIEN and FEENEY, JJ.

FEENEY, J. (*dissenting*).

While affirming the majority’s recitation of the facts in this case and appreciating the approach it pursued, I respectfully dissent.

Much of the parties’ arguments, as well as the trial court’s opinion, focuses on plaintiff’s authority pursuant to the charter to “control” the operations of the county departments under his supervision in contrast to defendant’s authority to enact ordinances and its right to receive information from plaintiff in the budgeting process. But I find a more fundamental question posed in this case.

As defendant observes in its brief, plaintiff had the authority under §3.9 of the Macomb County Charter to veto the ordinance but chose not to do so. Rather, plaintiff merely chose to not comply with the ordinance’s requirement to provide defendant with real-time, read-only access to the financial software. This is not the first time that plaintiff has chosen to ignore the Macomb County Board of Commissioners’ actions rather than use his veto authority. In *Macomb County Prosecutor v Macomb Co Executive*, 341 Mich App 289; 989 NW2d 864 (2022), the plaintiff prosecutor submitted to the Macomb County Executive (our plaintiff in the current case) a budget request for additional staffing in the prosecutor’s office. The Executive rejected the request in part, submitting a proposed budget to the Board of Commissioners that did provide for some additional staffing but not as many positions as the prosecutor had requested. *Id.* at 295. The prosecutor then went directly to the Board and requested an additional six positions beyond that

requested in the Executive's proposed budget. The budget the Board adopted included an appropriation for four of the six additional positions plaintiff requested. *Id.* at 295-296.¹

The Executive did not use his line-item veto power to reject the appropriation. Rather, he informed the Board that it lacked the authority to approve any budget not recommended by him and that he as the Executive would not disburse the funds for the additional positions. *Id.* at 297. The prosecutor brought an original action for declaratory judgment and mandamus in this Court. This Court concluded that a county Board of Commissioners has the authority to appropriate money not recommended by the County Executive. Specifically, the Court noted that the defendant has the power of a line-item veto over the budget:

We conclude that these provisions of the county charter allow the Board to appropriate more funds for a line item than the amount reflected in the recommended budget itself. Specifically, § 3.9 gives the authority to the Executive to veto "a line item of an ordinance appropriating money. . . ." If the board were not permitted to appropriate more funds for a line item than the amount specified in the recommended budget itself, then the authority to exercise a line-item veto would be completely redundant. A line-item veto never would be exercised because the Board would never be able to appropriate the undesired funds, from the perspective of the Executive, because it would be solely within the Executive's discretion as to the exact amount of funds allocated. *Id.* at 307-308.[²]

Ultimately, this Court concluded that the Executive (our plaintiff) must either disburse the funds for the additional positions or seek the Board's amendment to the appropriations ordinance, and it granted the prosecutor's request for declaratory relief and issued a writ of mandamus. *Id.* at 318.

In his brief on appeal, plaintiff explains in a footnote his decision not to exercise his veto power. He explains that, because this provision was not an appropriation, he could not exercise a line-item veto and would have been required to veto the entire ordinance including the entire annual budget for the county.³ While this may have presented a difficult decision for plaintiff to

¹ The approved budget included a line-item appropriation for the prosecutor's office personnel that was \$299,300 more than the executive's proposed budget amount, with the additional appropriation funding the additional personnel. *Id.* at 295-296.

² This Court went on to explore the Executive's authority to submit "a *proposed* annual budget" that is "*recommended*" to the Commission. *Id.* "The use of such tentative language as "proposed" and "recommended" indicates that the Executive does not have unilateral power to impose a final budget. Simply put, the County Charter creates a scheme whereby the budgetary process is initiated by the Executive through issuance of a recommended budget, and then the Board has the final authority to appropriate funds—subject, of course, to the veto power of the Executive." *Id.* at 308. Indeed, the Board of Commissioners "bears primary responsibility for the final budget." *Id.* at 307.

³ It is not entirely clear from the wording of the charter whether the line-item veto is limited to only those line items which appropriate funds or could include substantive provisions. But my

make, it is hardly unique in politics that the legislative branch may include a provision unpalatable to the executive in a large or important bill that the executive might find difficult to veto. But that does not justify the decision to ignore the disagreeable provision rather than veto the entire enactment. Such executive acquiescence occurred in this case, and it should not be encouraged or enforced.

This point was discussed in Rappaport, *The Unconstitutionality of "Signing and Not-Enforcing,"* 16 William & Mary Bill of Rights J 113 (2007). The primary thesis of Professor Rappaport's article is that, in most instances, it is unconstitutional for a President to sign a bill passed by Congress, rather than vetoing it, when the President believes that a portion of the bill is unconstitutional and the President intends to not enforce that portion. He discusses the point about whether a President should veto a bill in this scenario:

Perhaps the strongest argument for allowing the President to sign a bill he does not intend to enforce arises when there is a single unconstitutional provision in an otherwise constitutional bill. Does the President really have to veto a sizeable bill because one small provision in it is unconstitutional? Does he even have to veto a large spending bill that is necessary to fund the government?

In a word, yes. The President cannot avoid his constitutional responsibilities simply because the Constitution obligates him to exercise a burdensome veto. Like all constitutional actors, the President's powers are limited, and he cannot expand them out of convenience. The power of presidential review arises because the President claims that the Constitution precludes him from enforcing an unconstitutional provision. The President cannot make that claim while at the same time arguing that he can sign such a provision into law because it would be burdensome to veto it. The President must accept the bitter and the sweet of his powers.

There is, moreover, nothing peculiar about the President having to incur this burden, because it is uncontroversial that he must bear similar burdens in other situations. Suppose Congress presents a large bill to the President that contains a single provision that the President strongly opposes on policy grounds. It is absolutely clear that the President cannot item-veto the provision he dislikes simply because vetoing the bill would be burdensome. It is recognized that the President must either accept or veto the entire bill because the nature of his veto requires it. [*Id.* at 121-122; footnote omitted.]

It is certainly true that there is a difference in the separation of powers issues between a President under the Constitution and a county executive under a county charter.⁴ But the basic

reasoning applies in either case, so I accept, without deciding, that plaintiff's only option would have been to veto the entire ordinance.

⁴ See *Hackel v Macomb Co Commission*, 298 Mich App 311, 327; 826 NW2d 753 (2012).

principle remains the same: plaintiff's objection to the ordinance provision, whether grounded in a belief that it is bad policy or in a belief that it exceeds defendant's authority under the county charter or otherwise invades plaintiff's authority under the charter, does not justify ignoring that provision instead of vetoing the ordinance.⁵

This Court has discussed the obligation of each branch of government to exercise its powers and duties consistent with the Constitution. For example, in *Michigan Alliance for Retired Americans v Secretary of State*, 334 Mich App 238, 250-251; 964 NW2d 816 (2020), we concluded that the Legislature has standing to intervene in a lawsuit in order to defend a statute that the executive branch refuses to defend because the executive disfavors the law:

[T]he Legislature sought to intervene after defendants, constitutional officers within the Executive Branch, declined to appeal the Court of Claims decision. The Legislature, as a body made up of the elected representatives of the citizens of Michigan, is essentially taking the place of defendants in this case. Indeed, the Court of Claims initially denied the Legislature's motion to intervene and only permitted intervention after the Executive Branch abdicated its role in this litigation. As noted by this Court in *League of Women Voters of Mich v Secretary of State*, 333 Mich App 1, 11; 959 NW2d 1 (2020) (League II) (opinion by SAWYER, P.J.),

just as a legislative body cannot legitimately enact a statute that is repugnant to the Constitution, nor can an executive-branch official effectively declare a properly enacted law to be void by simply conceding the point in litigation. To vest that power in an official would effectively grant that official the power to amend the Constitution itself.

Or, as Judge BOONSTRA put it more bluntly in his concurrence in *Retired Americans*, 334 Mich App at 265, "After all, it would be much easier if a benevolent dictator could simply rule by decree without having to endure the inconvenience of others' input." But plaintiff must deal with the inconvenience of defendant's enactments, with plaintiff choosing to either veto the enacted ordinance or following it.⁶ Or, to put it more succinctly, the executive, be it governor or county

⁵ Indeed, plaintiff's position is not consistent with being respectful of the separation of powers. Plaintiff's approach-- declaring a provision of a properly enacted ordinance to be a violation of the charter and, therefore, he may ignore it--invades the authority of the judicial branch. Just as plaintiff must guard the authority vested in the executive, we must guard the authority vested in the judiciary. And, under the separation of powers principle, it is the judiciary that is empowered to ultimately determine whether a legislative enactment exceeds the legislative branch's authority to enact.

⁶ I take note that, according to the minutes of the November 9, 2017 Board of Commissioners meeting posted on the county's website, Ordinance 2017-04 passed unanimously, 12-0. Presumably, had plaintiff vetoed the ordinance, that veto would have been overridden. See Charter §4.4(f) (a veto may be overridden by a 2/3 vote of the commissioners).

executive, has an obligation to veto a bill that the executive believes violates the constitution, or in this case the county charter.

I would also note that allowing plaintiff to simply ignore or acquiesce to portions of an ordinance that the Executive chooses not to veto would effectively create a line-item veto where none is authorized under the charter. That is, as plaintiff acknowledges, his line-item veto authority only extends to appropriations; otherwise, the entire ordinance must be vetoed. But by allowing plaintiff to simply ignore that portion of an ordinance that he disfavors effectively creates a line-item veto, contrary to the express provisions of the county charter, over that disfavored provision. Plaintiff's argument is internally inconsistent—while arguing that he explicitly lacks the authority to exercise a line-item veto over a substantive provision in an ordinance, he is essentially arguing that he has the implicit authority to do so by simply ignoring provisions within an ordinance that he disagrees with and presumably would have exercised a line-item veto over had he possessed that authority.

Furthermore, the conclusion that plaintiff must comply with the ordinance because he is not permitted to ignore it would be the same even if I were to agree with plaintiff's basic argument that the county charter gives the Executive the authority to control access to the financial software. To summarize plaintiff's argument, the charter gives the Executive control "over all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law." Charter, §3.5(a). And, control over the operations and services of the finance and IT departments gives plaintiff control over access to the software used by those departments (i.e., the finance software). But, even if the charter gives plaintiff control over who has access to the software, it necessarily follows that plaintiff gave access to the defendant when plaintiff chose not to veto Ordinance 2017-04.

In sum, by leaving his veto pen in the desk drawer rather than using it, plaintiff gave his imprimatur to the ordinance. By doing so, he committed himself to following the ordinance. Once again, he was presented with a binary choice: (1) allow the ordinance to take effect without a veto and comply with the ordinance, or (2) veto the ordinance.⁷ Ignoring the ordinance without vetoing it is not one of the available options.

⁷ Lest there be confusion, I am not suggesting that there is no scenario in which the Executive cannot challenge an ordinance enacted by the Board. For example, this opinion should not be read as limiting the Executive's ability to challenge in court an ordinance enacted over the Executive's veto (and the veto is overridden) where the Executive believes that the ordinance improperly invades the authority granted to the Executive under the charter. This scenario would not present a case where the veto is issued merely over a disagreement in the wisdom of a particular policy. Nor is it a case where the Executive acquiesced to the ordinance by failing to veto it. Rather, it presents a true case where the Executive is aggrieved by the actions of the Board, attempted to stop the ordinance by issuing a veto, and must now turn to the courts to preserve the Executive's authority under the county charter.

For these reasons, I conclude that defendant was entitled to both declaratory relief and mandamus. *See Macomb Co Prosecutor*, 341 Mich App at 315-316, 318. As for declaratory relief, for the reasons discussed, plaintiff is bound by the ordinance that he failed to veto.⁸ It is therefore binding and enforceable against plaintiff. As for mandamus, the ordinance establishes defendant's right to being provided access to the software and plaintiff's duty to provide that access.⁹ And, while the general question whether a particular person should be granted access is discretionary in nature, because the ordinance specifically compels that access be granted, that act has become ministerial rather than discretionary. And there is no other remedy than compliance with the ordinance.

In short, this case is less about the substance of the ordinance and the county charter and more about process. Specifically, this case raises important issues regarding the process the Executive should pursue to both respect the principle of the separation of powers and protect the authority vested in his office. The process is not to "sign and not enforce" as Professor Rappaport would describe it. Rather, it is to exercise the executive's veto power and, if that veto is overridden, to turn to the courts for a determination whether the legislative branch crossed the line and invaded the jurisdiction of the executive.

For these reasons, I conclude that the trial court erred in failing to grant defendant's requested relief. I would reverse.

/s/ Kathleen A. Feeney

⁸ And to be clear, I am not concluding that defendant had the authority to enact that provision over plaintiff's veto. I do not address that ultimate question. Rather, I conclude that the ordinance is enforceable because plaintiff did not exercise his veto authority and cannot now complain that it invades the power of the executive; at a minimum, the Executive granted access to the software by failing to exercise his veto authority. Had plaintiff exercised his veto power and defendant then overrode that veto, and plaintiff then turned to the courts to protect what he perceived was the power of the executive branch, that may have called for a different result.

⁹ *Macomb Co Prosecutor*, 341 Mich App at 316, citing *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016).

TAB 2

2018-001252-CZ HACKEL, MARK A vs. MACOMB COUNTY BOARD OF COMMISSIONERS JMM

- Case Type:
CZ-OTHER GENERAL CIVIL
- Case Status:
Closed
- File Date:
03/28/2018
- DCM Track:
TRACK 120 DAYS DISCOVERY
- Action:
COMPLAINT FILED - CIVIL
- Status Date:
03/28/2018
- Case Judge:
MACERONI, JAMES M
- Next Event:

[All Information](#) | [Docket](#) | [Party](#) | [Event](#) | [Financial](#) | [Receipt](#) | [Disposition](#)

Docket Information

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
03/28/2018	ENTRY FEE	ENTRY FEE Receipt: 1096813 Date: 03/28/2018	\$150.00		\$0.00
03/28/2018	ELECTRONIC FILING SYSTEM FEE - CIVIL	ELECTRONIC FILING SYSTEM FEE - CIVIL Receipt: 1096813 Date: 03/28/2018	\$25.00		\$0.00
03/28/2018	COMPLAINT/PETITION FILED - CIVIL	COMPLAINT/PETITION FILED - CIVIL; WITH EXHIBITS MARK A HACKEL (PLAINTIFF); MACOMB COUNTY BOARD OF COMMISSIONERS (DEFENDANT);			
03/28/2018	SUMMONS ISSUED	SUMMONS ISSUED EXP 06/27/18			
03/28/2018	CASE PLACED ON E-FILING STATUS PER ADMINISTRATIVE ORDER 2010-6	CASE PLACED ON E-FILING STATUS PER ADMINISTRATIVE ORDER 2010-6			
04/10/2018	SERVICE ON COMPLAINT FILED	SERVICE ON COMPLAINT FILED (OBDH=58991736) PROOF OF SERVICE ON COMPLAINT FILED ACK/ 4-4-18 MACOMB COUNTY BOARD OF COMMISSIONERS (DEFENDANT);			
04/23/2018	APPEARANCE (LITIGANT'S ATTORNEY)	APPEARANCE (LITIGANT'S ATTORNEY) (OBDH=59399272) APPEARANCE (LITIGANTS ATTORNEY); CERT OF SVC MACOMB COUNTY BOARD OF COMMISSIONERS (DEFENDANT);			
04/23/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=59399271)			
05/30/2018	COUNTER COMPLAINT	COUNTER COMPLAINT (OBDH=60806467) MACOMB COUNTY BOARD OF COMMISSIONERS COUNTER COMPLAINT FOR DECLARATORY JUDGMENT INJUNCTIVE AND EQUITABLE RELIEF AND MANDAMUS AGAINST PLTF			
05/30/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=60806464)			
05/30/2018	ANSWER TO COMPLAINT	ANSWER TO COMPLAINT (OBDH=60806228) MACOMB COUNTY BOARD OF COMMISSIONERS ANSWER AND AFFIRMATIVE DEFENSES TO PLTF'S COMPLAINT; AFFIRMATIVE DEFENSES AND CERT OF SVC MACOMB COUNTY BOARD OF COMMISSIONERS			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		(DEFENDANT); Attorney: WEBSTER, PETER HEY (48783)			
05/30/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=60806224)			
06/05/2018	DISCOVERY AND CASE EVALUATION ORDER ISSUED	DISCOVERY AND CASE EVALUATION ORDER ISSUED (N) IMAGE OF DISCOVERY AND CASE EVAL ORDER Sent on: 06/05/2018 15:05:07.85			
06/05/2018	IMAGE OF EVENT NOTICE SENT	IMAGE OF EVENT NOTICE SENT (N) EDSC NOTICE Sent on: 06/05/2018 15:07:11.28			
06/05/2018	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED Event: EARLY DISPOSITION SETTLEMENT CONFERENCE Date: 07/31/2018 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2 Result: ADJOURNED-STIPULATION & ORDER			
06/05/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61018818)			
06/05/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61018829)			
06/06/2018	APPEARANCE (LITIGANT'S ATTORNEY)	APPEARANCE (LITIGANT'S ATTORNEY) (OBDH=61061254) APPEARANCE (LITIGANTS ATTORNEY) MACOMB COUNTY BOARD OF COMMISSIONERS (COUNTER-PLAINTIFF);			
06/06/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61061248)			
06/08/2018	CASE EVAL AFTER: SUMMARY DISPO MOTION BY: PLTF'S WITNESS LIST BY: DEFT'S WITNESS LIST BY:	CASE EVAL AFTER: 10/03/2018 SUMMARY DISPO MOTION BY: 01/01/2019 PLTF'S WITNESS LIST BY: 07/20/2018 DEFT'S WITNESS LIST BY: 08/06/2018			
06/18/2018	MOTION:	MOTION: (OBDH=61414119) STIPULATED MOTION REMOVING CASE FROM CASE EVALUATION, W/ EXB 1-2			
06/18/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61414127)			
06/18/2018	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=61414117) E-FILED REQUEST FOR HEARING, PRF OF SRV			
06/18/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61414128)			
06/19/2018	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 6/19/2018 10:56:43 AM Receipt: 1112759 Date: 06/19/2018	\$20.00		\$0.00
06/19/2018	HEARING: MTN TO REMOVE FROM CASE EVAL DOCKET SCHEDULED	HEARING: MTN TO REMOVE FROM CASE EVAL DOCKET SCHEDULED Event: (E) MTN TO REMOVE FROM CASE EVAL DKT Date: 07/02/2018 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2 WEBSTER Result: MOTION DISMISSED			
06/20/2018	ANSWER TO COMPLAINT	ANSWER TO COMPLAINT (OBDH=61501581) PLAINTIFF COUNTER DEFENDANTS ANSWER TO MACOMB COUNTY BOARD OF COMMISSIONERS COUNTER COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE AND EQUITABLE RELIEF, AND MANDAMUS AGAINST			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		PLAINTIFF, AFFIRMATIVE DEFENSES MARK A HACKEL (COUNTER-DEFENDANT); Attorney: HOMIER, MICHAEL D (60318)			
06/20/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61501578)			
06/28/2018	CASE NOTE:	CASE NOTE: PER ATTY WEBSTER'S OFFICE NO ONE WILL BE APPEARING FOR MTN ON 07/02/18 - STIP & ORD RE: CASE EVAL FILED ON 06/28/18.			
06/28/2018	DOCUMENT FILED:	DOCUMENT FILED: (OBDH=61757469) PROPOSED ORDER GRANTING STIPLATED MTN REMOVING CASE FROM CASE EVALUATION			
06/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=61757467)			
07/02/2018	MOTION DISMISSED	MOTION DISMISSED PARTIES FTA The following event: (E) MTN TO REMOVE FROM CASE EVAL DKT scheduled for 07/02/2018 at 8:30 am has been resulted as follows: Result: MOTION DISMISSED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2			
07/20/2018	PLAINTIFF'S WITNESS LIST	PLAINTIFF'S WITNESS LIST (OBDH=62413896) PLAINTIFF/COUNTER-DEFENDANTS WITNESS LIST			
07/20/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62413895)			
07/27/2018	ORDER REMOVING FROM CASE EVALUATION - SGD	ORDER REMOVING FROM CASE EVALUATION - SGD.			
07/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62695067)			
07/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62695267)			
07/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62695080)			
07/31/2018	ADJOURNED - STIPULATION & ORDER	ADJOURNED - STIPULATION & ORDER ADJOURNING EDSC TO 08/28/18 AT 8:30 AM - OTE. The following event: EARLY DISPOSITION SETTLEMENT CONFERENCE scheduled for 07/31/2018 at 8:30 am has been resulted as follows: Result: ADJOURNED-STIPULATION & ORDER Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2			
07/31/2018	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED The following event: EARLY DISPOSITION SETTLEMENT CONFERENCE scheduled for 07/31/2018 at 8:30 am has been rescheduled as follows: Event: EARLY DISPOSITION SETTLEMENT CONFERENCE Date: 08/28/2018 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2 Result: HELD: NOT PLACED ON RECORD			
07/31/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62775237)			
07/31/2018	ADJOURNED - STIPULATION & ORDER	ADJOURNED - STIPULATION & ORDER (OBDH=62695082) ADJOURNED - STIPULATION & ORDER ADJ EDSC FROM 07/31/18 TO 08/28/18 AT 8:30 AM - SGD.			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
07/31/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62775237)			
08/06/2018	DEFENDANTS WITNESS LIST	DEFENDANTS WITNESS LIST (OBDH=62946356) DEFENDANT/COUNTER-PLTF MACOMB COUNTY BOARD OF COMMISSIONERS WITNESS LIST; PRF OF SVC			
08/06/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=62946345)			
08/28/2018	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD, ONLY ATTY WEBSTER APPEARED FOR CONFERENCE, EDSC ADJ TO 09/18/18 AT 8:30 AM - SGD. The following event: EARLY DISPOSITION SETTLEMENT CONFERENCE scheduled for 08/28/2018 at 8:30 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2			
08/28/2018	IMAGE OF EVENT NOTICE SENT	IMAGE OF EVENT NOTICE SENT (N) EDSC NOTICE Sent on: 08/28/2018 09:57:27.46			
08/28/2018	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED	EARLY DISPOSITION SETTLEMENT CONFERENCE SCHEDULED The following event: EARLY DISPOSITION SETTLEMENT CONFERENCE scheduled for 08/28/2018 at 8:30 am has been rescheduled as follows: Event: EARLY DISPOSITION SETTLEMENT CONFERENCE Date: 09/18/2018 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2 Result: HELD: NOT PLACED ON RECORD			
08/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=63730585)			
08/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=63731754)			
09/18/2018	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD, PARTIES TO CONT W/ CURRENT SCHEDULING ORDER. The following event: EARLY DISPOSITION SETTLEMENT CONFERENCE scheduled for 09/18/2018 at 8:30 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2			
09/28/2018	STIP & ORDER SGD RE:	STIP & ORDER SGD RE: (OBDH=64866282) STIP & ORDER REGARDING DISCOVERY -SGD			
09/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=64866280)			
10/19/2018	PROOF OF SERVICE	PROOF OF SERVICE (OBDH=65635411) PROOF OF SERVICE			
10/19/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=65635409)			
11/01/2018	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 12/03/2018 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2 WEBSTER Result: ADJOURNED-STIPULATION & ORDER			

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<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
11/01/2018	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=66124754) E-FILED REQUEST FOR HEARING, NOTICE OF HEARING, PROOF OF SERVICE			
11/01/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=66124752)			
11/01/2018	NOTICE OF HEARING	NOTICE OF HEARING (OBDH=66124755) NOTICE OF HEARING, CERTIFICATE OF SERVICE			
11/01/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=66124753)			
11/01/2018	MOTION FOR SUMMARY DISPOSITION	MOTION FOR SUMMARY DISPOSITION (OBDH=66124720) MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR SUMMARY DISPOSITION OF PLTFS COMPLAINT PURSUANT TO MCR 2.116(C)(8) AND (C)(10), BRIEF IN SUPPORT, W/ EXHIBITS			
11/01/2018	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 11/1/2018 11:34:50 AM Receipt: 1137953 Date: 11/01/2018	\$20.00		\$0.00
11/01/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=66124746)			
11/13/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=66594575)			
11/16/2018	ORDER OF SUBSTITUTION - SGD	ORDER OF SUBSTITUTION - SGD (OBDH=66594513) ORDER OF SUBSTITUTION - SGD MARK A HACKEL (PLAINTIFF); MARK A HACKEL (COUNTER-DEFENDANT);			
11/16/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=66784191)			
11/26/2018	ORDER ADJOURNING CASE EVALUATION - SGD	ORDER ADJOURNING CASE EVALUATION - SGD (OBDH=67053964) STIP & ORDER REGARDING SCHEDULING DATES -SGD ***DISC BY 2-4-19; MSD FILED & HRD BY 1-10-19; CASE EVAL AFT DISC			
11/26/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67053962)			
11/27/2018	ADJOURNED - STIPULATION & ORDER	ADJOURNED - STIPULATION & ORDER The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 12/03/2018 at 8:30 am has been resulted as follows: Result: ADJOURNED-STIPULATION & ORDER Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 2			
11/27/2018	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 12/03/2018 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 01/22/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 WEBSTER Result: ADJOURNED-BY COURT			
11/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67097636)			
11/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67097636)			
11/28/2018	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=67144136) RE-NOTICE OF HEARING, PROOF OF SERVICE			

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<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
11/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67144145)			
11/28/2018	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=67144150) E-FILED REQUEST FOR HEARING			
11/28/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67144149)			
12/21/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=67922778)			
12/27/2018	PROOF OF SERVICE	PROOF OF SERVICE (OBDH=68001573) PROOF OF SERVICE			
12/27/2018	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68001570)			
01/10/2019	RESPONSE TO MOTION	RESPONSE TO MOTION (OBDH=68369933) MARK HACKELS RESPONSE IN OPPOSITION TO MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR SUMMARY DISPOSITION AND REQUEST FOR ENTRY OF SUMMARY DISPOSITION, PRF OF SRVC			
01/10/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68369950)			
01/10/2019	DOCUMENT FILED:	DOCUMENT FILED: (OBDH=68369954) EXHIBITS TO MARK A. HACKELS RESPONSE IN OPPOSITION TO MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR SUMMARY DISPOSITION PURSUANT TO MCR 2.116(C)(8) AND (C)(10), AND REQUEST FOR ENTRY OF SUMMARY			
01/10/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68369947)			
01/10/2019	EXHIBITS FILED	EXHIBITS FILED (OBDH=68371667) CORRECTED EXHIBIT LIST (A-JJ) (EXHIBITS ATTACHED) TO MARK A. HACKEL'S RESPONSE IN OPPOSITION TO MACOMB COUNTY BOARD OF COMMISSIONERS' MOTION FOR SUMMARY DISPOSITION PURSUANT TO MCR 2.116(C)(8) AND (C)(10), AND REQUEST FOR ENTRY OF SUMMARY DISPOSITION PURSUANT TO MCR 2.116(I)(2)			
01/10/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68371662)			
01/14/2019	HEARING: MTN TO AMEND SCHEDULING ORDER SCHEDULED	HEARING: MTN TO AMEND SCHEDULING ORDER SCHEDULED Event: (E) MTN TO AMEND SCHEDULING ORDER Date: 01/22/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 WEBSTER, VIVIANO, GRANO Result: ADJOURNED-BY COURT			
01/14/2019	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=68464372) E-FILED REQUEST FOR HEARING, NOTICE OF HEARING, PROOF OF SERVICE			
01/14/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68464364)			
01/14/2019	NOTICE OF HEARING	NOTICE OF HEARING (OBDH=68464374) NOTICE OF HEARING, CERTIFICATE OF SERVICE			
01/14/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68464367)			
01/14/2019	MOTION:	MOTION: (OBDH=68464373) UNOPPOSED MOTION TO MODIFY STIPULATED ORDER REGARDING SCHEDULING ORDER DATES, BRIEF IN SUPPORT OF MOTION, EXHIBITS			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
01/14/2019	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 1/14/2019 5:59:01 PM Receipt: 1150584 Date: 01/14/2019	\$20.00		\$0.00
01/14/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68464368)			
01/17/2019	DOCUMENT FILED:	DOCUMENT FILED: (OBDH=68618769) NTC OF CORRECTION OF CITATIONS CONTAINED IN MARK A. HACKELS 01-10-18 RSP IN OPPOSITION TO MCBCS MSD PURSUANT TO MCR 2.116(C)(8)&(C)(10), AND REQUEST FOR ENTRY OF SUMMARY DISPO PURSUANT TO MCR 2.116(I)(2), PROOF OF SRVC			
01/17/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68618768)			
01/18/2019	RESPONSE TO MOTION	RESPONSE TO MOTION (OBDH=68658279) MACOMB COUNTY BOARD OF COMMISSIONERS REPLY IN SUPPORT OF MOTION FOR SUMMARY DISPO OF PLTFS COMPLAINT PURSUANT TO MCR 2.116(C)(8) AND (C)(10, EXHIBITS, CERT OF SRVC			
01/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=68658274)			
01/22/2019	ADJOURNED-BY COURT	ADJOURNED-BY COURT The following event: (E) MTN TO AMEND SCHEDULING ORDER scheduled for 01/22/2019 at 8:30 am has been resulted as follows: Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
01/22/2019	HEARING: MTN TO AMEND SCHEDULING ORDER SCHEDULED	HEARING: MTN TO AMEND SCHEDULING ORDER SCHEDULED The following event: (E) MTN TO AMEND SCHEDULING ORDER scheduled for 01/22/2019 at 8:30 am has been rescheduled as follows: Event: (E) MTN TO AMEND SCHEDULING ORDER Date: 02/19/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 WEBSTER, VIVIANO, GRANO Result: SCHEDULED EVENT CANCELLED			
01/22/2019	ADJOURNED-BY COURT	ADJOURNED-BY COURT The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 01/22/2019 at 8:30 am has been resulted as follows: Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
01/22/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 01/22/2019 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 02/19/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 WEBSTER Result: HELD - TAKEN UNDER ADVISEMENT			
01/29/2019	SCHEDULED EVENT CANCELLED	SCHEDULED EVENT CANCELLED The following event: (E) MTN TO AMEND SCHEDULING ORDER scheduled for 02/19/2019 at 8:30 am has been resulted as follows:			

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<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		Result: SCHEDULED EVENT CANCELLED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
01/30/2019	ORDER EXTENDING DISCOVERY - SGD	ORDER EXTENDING DISCOVERY - SGD (OBDH=69013751) SECOND STIPULATED ORDER REGARDING SCHEDULING DATES -SGD ***DISC BY 3-6-19; MSD FILED & HRD BY 6-5-19; ORDER STIPD TO REMOVE FROM CASE EVAL			
01/30/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69013749)			
01/31/2019	DOCUMENT FILED:	DOCUMENT FILED: (OBDH=69055543) PLTF COUNT DEFT MARK HACKELS OBJECTIONS AND RESPONSES TO MACOMB COUNTY BOARD OF COMMISSIONERS FIRST SET OF DISCOVERY REQUESTS TO PLTF COUNT DEFT MARK A HACKEL			
01/31/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69055539)			
01/31/2019	PROOF OF SERVICE	PROOF OF SERVICE (OBDH=69055541) PROOF OF SERVICE			
01/31/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69055535)			
02/04/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69132799)			
02/15/2019	BRIEF IN SUPPORT	BRIEF IN SUPPORT (OBDH=69559680) MACOMB COUNTY BOARD OF COMM NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF MTN FOR SD OF PLTF'S COMPLAINT W/ CERT OF SERV & EXHIBIT			
02/15/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69559712)			
02/19/2019	HELD - TAKEN UNDER ADVISEMENT	HELD - TAKEN UNDER ADVISEMENT; CT TO ISSUE WRITTEN OPINION -SGD The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 02/19/2019 at 8:30 am has been resulted as follows: Result: HELD - TAKEN UNDER ADVISEMENT Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 HELD ON THE RECORD COURT REPORTER: VIDEO CIRCUIT Certificate #:			
02/19/2019	OPINION TO ENTER	OPINION TO ENTER			
02/22/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=69764700)			
03/06/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70171096)			
03/06/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70171103)			
03/06/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70171097)			
03/06/2019	NOTICE OF TAKING DEPOSITIONS	NOTICE OF TAKING DEPOSITIONS (OBDH=70171856) NOTICE OF DEPOSITION OF MACOMB COUNTY BOARD OF COMMISSIONERS CHAIRMAN BOB SMITH; PRF OF SRV			
03/06/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70171848)			
03/15/2019	MOTION:	MOTION: (OBDH=70490950) MACOMB COUNTY EXECUTIVE MARK A HACKEL (EXECUTIVE)'S MOTION FOR A PROTECTIVE ORDER W/EXHIBIT A-C; PROOF OF SERVICE			

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<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
03/15/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70490943)			
03/15/2019	BRIEF IN SUPPORT OF MOTION	BRIEF IN SUPPORT OF MOTION (OBDH=70490951) MACOMB COUNTY EXECUTIVE MARK A HACKEL (EXECUTIVE)S BRIEF IN SUPPORT OF MOTION FOR A PROTECTIVE ORDER; PROOF OF SERVICE			
03/15/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70490940)			
03/15/2019	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=70490953) E-FILED REQUEST FOR HEARING; NOTICE OF HEARING; PROOF OF SERVICE			
03/15/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70490945)			
03/18/2019	MOTION FOR SUMMARY DISPOSITION	MOTION FOR SUMMARY DISPOSITION (OBDH=70538398) MARK A. HACKELS MOTION FOR SUMMARY DISPOSITION ON COUNTERCLAIM WITH PROOF OF SERV			
03/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70538419)			
03/18/2019	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=70538433) E-FILED REQUEST FOR HEARING WITH NOTICE OF HEAR AND PROOF OF SERV FOR MOTION FOR SUMMARY DISPOSITION FOR 04-08-19			
03/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70538423)			
03/18/2019	BRIEF IN SUPPORT	BRIEF IN SUPPORT (OBDH=70538428) BRIEF IN SUPPORT WITH PROOF OF SERV			
03/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70538420)			
03/19/2019	HEARING: MTN FOR PROTECTIVE ORDER SCHEDULED	HEARING: MTN FOR PROTECTIVE ORDER SCHEDULED Event: (E) MTN FOR PROTECTIVE ORDER Date: 03/25/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 VIVIANO Result: HELD: NOT PLACED ON RECORD			
03/19/2019	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 3/19/2019 10:32:17 AM Receipt: 1162621 Date: 03/19/2019	\$20.00		\$0.00
03/19/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 04/08/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 VIVIANO Result: MOTION HEARING ADJOURNED			
03/19/2019	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 3/19/2019 3:55:12 PM Receipt: 1162827 Date: 03/19/2019	\$20.00		\$0.00
03/19/2019	EXHIBITS FILED	EXHIBITS FILED (OBDH=70620448) EXHIBITS A-Q TO MARK A. HACKEL'S MOTION FOR SUMMARY DISPOSITION ON COUNTERCLAIM			
03/19/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70584244)			
03/20/2019	EXHIBITS FILED	EXHIBITS FILED (OBDH=70633676) EXHIBIT A - MCBOCS RESPONSE IN			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		OPPOSITION TO PLAINTIFF/COUNTER DEFENDANT MARK A HACKELS MOTION FOR A PROTECTIVE ORDER			
03/20/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70633711)			
03/20/2019	RESPONSE TO MOTION	RESPONSE TO MOTION (OBDH=70633677) MACOMB COUNTY BOARD OF COMMISSONERS RESPONSE IN OPPOSITION TO PLAINTIFF/COUNTER DEFENDANT MARK A HACKELS MOTION FOR A PROTECTIVE ORDER, CERTIFICATE OF SERVICE			
03/20/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70633703)			
03/22/2019	EXHIBITS FILED	EXHIBITS FILED (OBDH=70714293) EXHIBITS A-F TO MACOMB COUNTY EXECUTIVE MARK A. HACKELS REPLY BRIEF IN SUPPORT OF MOTION FOR A PROTECTIVE ORDER			
03/22/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70714286)			
03/22/2019	BRIEF IN SUPPORT	BRIEF IN SUPPORT (OBDH=70714294) MACOMB COUNTY EXECUTIVE MARK A. HACKELS REPLY BRIEF IN SUPPORT OF MOTION FOR A PROTECTIVE ORDER			
03/22/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70714289)			
03/25/2019	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD, ATTYS APPEARED, STIPULATED ORDER TO ENTER The following event: (E) MTN FOR PROTECTIVE ORDER scheduled for 03/25/2019 at 8:30 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
03/25/2019	ORDER SIGNED:	STIPULATED ORDER OF DISCOVERY - SGD			
03/27/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=70853754)			
04/08/2019	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 05/06/19 AT 8:30 AM PER ATTY VIVIANO'S OFFICE. The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 04/08/2019 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
04/08/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 04/08/2019 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 05/06/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 VIVIANO Result: MOTION HEARING ADJOURNED			
04/08/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=71188711) RE-NOTICE OF HEARING			
04/30/2019	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 6-17-19 @ 830AM PER ATTY VIVIANO'S OFFICE The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 05/06/2019 at 8:30 am has been resulted as follows:			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
04/30/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 05/06/2019 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 06/17/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 VIVIANO Result: MOTION HEARING ADJOURNED			
04/30/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=71897405) RE-NOTICE OF HEARING; PRF OF SVC			
04/30/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=71897404)			
06/11/2019	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED BY VIVIANO'S OFFICE TO 7-22-19 @ 830AM The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 06/17/2019 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
06/11/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 06/17/2019 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 07/22/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4 VIVIANO Result: MOTION HEARING ADJOURNED			
06/11/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=73172959) RE-NOTICE OF HEARING, PROOF OF SERVICE			
06/11/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=73172951)			
06/18/2019	OPINION & ORDER SIGNED	OPINION & ORDER GRANTING IN DEFT BOC'S MTN FOR SUMMARY DISPOSITION AND DENYING PLTF HACKEL'S REQUEST FOR SUMMARY DISPOSITION - SGD. (CASE REMAINS OPEN)			
06/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=73412168)			
06/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=73412211)			
07/16/2019	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 9-23-19 @ 830AM The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 07/22/2019 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4			
07/16/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		<p>The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 07/22/2019 at 8:30 am has been rescheduled as follows:</p> <p>Event: (E) MTN FOR SUMMARY DISPOSITION Date: 09/23/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4</p> <p>VIVIANO</p> <p>Result: MOTION HEARING ADJOURNED</p>			
07/16/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=74225972) RE-NOTICE OF HEARING; PROOF OF SERVICE			
07/16/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=74225970)			
09/18/2019	MOTION HEARING ADJOURNED	<p>MOTION HEARING ADJOURNED TO 11/18/19 AT 8:30 AM PER ATTY VIVIANO'S OFFICE.</p> <p>The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 09/23/2019 at 8:30 am has been resulted as follows:</p> <p>Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: CIRCUIT COURT BUILDING - 4TH FLOOR - COURT ROOM 4</p>			
09/18/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	<p>HEARING: MTN FOR SUMMARY DISP SCHEDULED</p> <p>The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 09/23/2019 at 8:30 am has been rescheduled as follows:</p> <p>Event: (E) MTN FOR SUMMARY DISPOSITION Date: 11/18/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p> <p>VIVIANO</p> <p>Result: MOTION HEARING ADJOURNED</p>			
09/18/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=76407154) RE-NOTICE OF HEARING; PRF OF SRV			
09/18/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=76407151)			
11/13/2019	MOTION HEARING ADJOURNED	<p>MOTION HEARING ADJOURNED TO 1-21-19 @ 830AM</p> <p>The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/18/2019 at 8:30 am has been resulted as follows:</p> <p>Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p>			
11/13/2019	HEARING: MTN FOR SUMMARY DISP SCHEDULED	<p>HEARING: MTN FOR SUMMARY DISP SCHEDULED</p> <p>The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/18/2019 at 8:30 am has been rescheduled as follows:</p> <p>Event: (E) MTN FOR SUMMARY DISPOSITION Date: 01/21/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p> <p>VIVIANO</p> <p>Result: MOTION HEARING ADJOURNED</p>			
11/13/2019	STATUS CONFERENCE SCHEDULED	<p>STATUS CONFERENCE SCHEDULED</p> <p>Event: STATUS CONFERENCE Date: 11/19/2019 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT</p>			

MSC Appendix 000034

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		BUILDING - 4TH FLOOR - COURTROOM 4NE Result: HELD: NOT PLACED ON RECORD			
11/13/2019	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=78605154) RE-NOTICE OF HEARING			
11/13/2019	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=78605152)			
11/19/2019	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD, STATUS CONFERENCE 05/19/2020 AT 8:30 AM. The following event: STATUS CONFERENCE scheduled for 11/19/2019 at 8:30 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
11/19/2019	STATUS CONFERENCE SCHEDULED	STATUS CONFERENCE SCHEDULED The following event: STATUS CONFERENCE scheduled for 11/19/2019 at 8:30 am has been rescheduled as follows: Event: STATUS CONFERENCE Date: 02/25/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: HELD: NOT PLACED ON RECORD			
01/16/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 04/20/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
01/16/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 4-20-20 @ 8:30AM The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 01/21/2020 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
01/16/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 01/21/2020 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 04/20/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO			
01/16/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=80713870) RE-NOTICE OF HEARING W/ PROOF OF SERVICE			
01/16/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=80713869)			
01/24/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 04/20/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: MOTION HEARING ADJOURNED			
02/25/2020	NOT HELD - NO APPEARANCE BY PARTIES/COUNSEL	NOT HELD - NO APPEARANCE BY PARTIES/COUNSEL The following event: STATUS CONFERENCE scheduled for 02/25/2020 at 8:30 am has been resulted as follows: Result: NOT HELD - NO APPEARANCE BY PARTIES/COUNSEL			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
03/09/2020	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OB DH=82441239) E-FILED REQUEST FOR HEARING			
03/09/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=82441229)			
03/09/2020	MOTION:	MOTION: (OB DH=82441242) MACOMB COUNTY BOARD OF COMMISSIONERS MOTION TO DETERMINE THE SUFFICIENCY OF ANSWERS OR OBJECTIONS TO REQUESTS FOR ADMISSION PURSUANT TO MCR 2.312(C), BRIEF IN SUPPORT OF MOTION, EXHIBITS, PROOF OF SERVICE			
03/09/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=82441237)			
03/10/2020	MISCELLANEOUS MOTION HEARING SCHEDULED	MISCELLANEOUS MOTION HEARING SCHEDULED Event: (E) MISCELLANEOUS MOTION HEARING Date: 03/30/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER (DETRMIN SUFF OF ANSWRS TO REQ FOR ADM) Result: MOTION HEARING ADJOURNED			
03/10/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=82491165)			
03/10/2020	MISCELLANEOUS MOTION HEARING SCHEDULED	MISCELLANEOUS MOTION HEARING SCHEDULED Event: MISCELLANEOUS MOTION HEARING Date: 03/30/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER, VIVIANO			
03/10/2020	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 3/10/2020 2:12:56 PM Receipt: 1229185 Date: 03/10/2020	\$20.00		\$0.00
03/19/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 4-13-20 @ 8:30AM FOR PUBLIC HEALTH REASONS The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 03/30/2020 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
03/19/2020	MISCELLANEOUS MOTION HEARING SCHEDULED	MISCELLANEOUS MOTION HEARING SCHEDULED The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 03/30/2020 at 8:30 am has been rescheduled as follows: Event: (E) MISCELLANEOUS MOTION HEARING Date: 04/13/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER, VIVIANO Result: HELD - TAKEN UNDER ADVISEMENT Result: ADJOURNED-BY COURT			
03/19/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OB DH=82837473) RE-NOTICE OF HEARING, CERT OF SVC			
03/19/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=82837472)			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
04/09/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=83334362) RE-NOTICE OF HEARING, CERTIFICATE OF SERVICE			
04/09/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=83334355)			
04/13/2020	HELD - TAKEN UNDER ADVISEMENT	HELD - TAKEN UNDER ADVISEMENT, WRITTEN OPINION/ORDER TO ENTER The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 04/13/2020 at 8:30 am has been resulted as follows: Result: HELD - TAKEN UNDER ADVISEMENT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
04/16/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 04/20/2020 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
04/16/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 04/20/2020 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 06/22/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION HEARING ADJOURNED			
04/16/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=83489534) RE-NOTICE OF HEARING W/ PROOF OF SERVICE			
04/16/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=83489532)			
04/23/2020	ADJOURNED-BY COURT	ADJOURNED-BY COURT TO 5-11-20 @ 8:30AM The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 04/13/2020 at 8:30 am has been resulted as follows: Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
04/23/2020	MISCELLANEOUS MOTION HEARING SCHEDULED	MISCELLANEOUS MOTION HEARING SCHEDULED The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 04/13/2020 at 8:30 am has been rescheduled as follows: Event: (E) MISCELLANEOUS MOTION HEARING Date: 05/11/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER, VIVIANO Result: HELD - TAKEN UNDER ADVISEMENT			
04/24/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=83962205) RE-NOTICE OF HEARING, PROOF OF SERVICE			
04/24/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=83962203)			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
05/06/2020	REQUEST FOR HEARING ON A MOTION; NOTICE OF HEARING; PROOF OF SERVICE	REQUEST FOR HEARING ON A MOTION; NOTICE OF HEARING; PROOF OF SERVICE (OB DH=84285890) RE-REQUEST FOR HEARING ON A MOTION; RE-NOTICE OF HEARING; PROOF OF SERVICE (DATE ALREADY RESCHED)			
05/06/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=84285884)			
05/07/2020	RESPONSE TO MOTION	RESPONSE TO MOTION (OB DH=84333211) PLTF'S RESP TO MACMB CNTY BOARD OF COMM MTN TO DETERMINE THE SUFFICIENCY OF ANSWERS OR OBJECTIONS TO REQ FOR ADMISSION PURSUANT TO MCR 2.312(C) W/EXHS - PROOF OF SERVICE			
05/07/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=84333203)			
05/11/2020	HELD - TAKEN UNDER ADVISEMENT	HELD - TAKEN UNDER ADVISEMENT PURSUANT TO MCR 2.119 (E), OPINION / ORDER TO ENTER The following event: (E) MISCELLANEOUS MOTION HEARING scheduled for 05/11/2020 at 8:30 am has been resulted as follows: Result: HELD - TAKEN UNDER ADVISEMENT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
06/11/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 09/21/20 AT 8:30 AM PER ATTY VIVIANO'S OFFICE. The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 06/22/2020 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
06/11/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 06/22/2020 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 09/21/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION HEARING ADJOURNED			
06/11/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OB DH=85307227) RE-NOTICE OF HEARING			
06/11/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=85307226)			
06/11/2020	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OB DH=85307228) E-FILED REQUEST FOR HEARING			
06/11/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=85307223)			
08/25/2020	OPINION & ORDER SIGNED	OPINION & ORDER DENYING DEFT'S MTN TO DETERMINE - SGD. (CASE REMAINS OPEN)			
08/25/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=87759556)			
09/11/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OB DH=88404179) RE-NOTICE OF HEARING - PROOF OF SERVICE 11/16/2020 @ 830AM			
09/11/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OB DH=88404211)			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
09/14/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 11/16/20 AT 8:30 AM PER CATHY AT ATTY VIVIANO'S OFFICE. The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 09/21/2020 at 8:30 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
09/14/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 09/21/2020 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 11/16/2020 Time: 8:30 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: CHANGE EVENT START TIME			
11/09/2020	CHANGE EVENT START TIME	CHANGE EVENT START TIME The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/16/2020 at 8:30 am has been resulted as follows: Result: CHANGE EVENT START TIME Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
11/09/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/16/2020 at 8:30 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 11/16/2020 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION HEARING ADJOURNED			
11/10/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=90696262)			
11/12/2020	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 02/16/21 AT 10:00 AM. The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/16/2020 at 10:00 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
11/12/2020	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 11/16/2020 at 10:00 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 02/16/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION HEARING ADJOURNED			
11/12/2020	E-FILED REQUEST FOR	E-FILED REQUEST FOR HEARING			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
	HEARING	(OBDH=90746505) E-FILED RE-REQUEST FOR HEARING			
11/12/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=90746504)			
11/12/2020	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=90752621) RE-NOTICE OF HEARING WITH PROOF OF SERVICE			
11/12/2020	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=90752620)			
02/11/2021	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 02/16/2021 at 10:00 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
02/11/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 02/16/2021 at 10:00 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 05/17/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION HEARING ADJOURNED			
02/11/2021	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=93775329) RE-NOTICE OF HEARING, PRF OF SERV			
02/11/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=93775325)			
05/10/2021	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 05/17/2021 at 10:00 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
05/10/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 05/17/2021 at 10:00 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 08/16/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: MOTION DISMISSED			
05/10/2021	RE-NOTICE OF HEARING	RE-NOTICE OF HEARING (OBDH=96860268) RE-NOTICE OF HEARING, PROOF OF SERVICE			
05/10/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=96860239)			
06/30/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 08/16/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		WEBSTER Result: MOTION HEARING ADJOURNED			
06/30/2021	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=98268172) E-FILED REQUEST FOR HEARING 8/16/2021 @ 10:00AM			
06/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98268166)			
06/30/2021	EXHIBITS FILED	EXHIBITS FILED (OBDH=98268170) EXHIBITS 5-7 TO MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTER-COMPLAINT PURSUANT TO MCR 2.116(C)(9) & (C)(10)			
06/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98268167)			
06/30/2021	MOTION FOR SUMMARY DISPOSITION	MOTION FOR SUMMARY DISPOSITION (OBDH=98268171) MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTER-COMPLAINT PURSUANT TO MCR 2.116(C)(9) & (C)(10) - BRIEF IN SUPP - PROOF OF SERVICE			
06/30/2021	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 6/30/2021 4:01:13 PM Receipt: 1295112 Date: 06/30/2021	\$20.00		\$0.00
06/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98268168)			
06/30/2021	EXHIBITS FILED	EXHIBITS FILED (OBDH=98268169) EXHIBITS TO MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTER-COMPLAINT PURSUANT TO MCR 2.116(C)(9) & (C)(10)			
06/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98268165)			
06/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98280409)			
07/01/2021	STATUS CONFERENCE SCHEDULED	STATUS CONFERENCE SCHEDULED Event: STATUS CONFERENCE Date: 07/08/2021 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: HELD: NOT PLACED ON RECORD			
07/01/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98310711)			
07/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98496809)			
07/12/2021	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD, STATUS CONF 11/4/21 @ 9AM The following event: STATUS CONFERENCE scheduled for 07/08/2021 at 9:00 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
07/12/2021	STATUS CONFERENCE SCHEDULED	STATUS CONFERENCE SCHEDULED The following event: STATUS CONFERENCE scheduled for 07/08/2021 at 9:00 am has been rescheduled as follows: Event: STATUS CONFERENCE Date: 11/04/2021 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: SCHEDULED EVENT CANCELLED			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
07/12/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98531793)			
07/15/2021	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=98681087) E-FILED REQUEST FOR HEARING, NOTICE OF HEARING, PROOF OF SERVICE			
07/15/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98681086)			
07/16/2021	MOTION DISMISSED	MOTION DISMISSED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 08/16/2021 at 10:00 am has been resulted as follows: Result: MOTION DISMISSED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
07/16/2021	STIP & ORDER SGD RE:	STIP & ORDER SGD RE: (OBDH=98496816) STIP & ORDER RE BRIEFING SCHED - PLTFS MSD W/DRAWN, DEFT TO RENTC THEIRS FOR 9/13/21, PLTFS CROSS MTN FOR PARTL SD TO BE FILED BY 8/9/21 & SET FOR 9/13/21 AT 10AM, RESPONSES TO MTNS FILED BY 8/30/21 SGD			
07/16/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=98719393)			
07/21/2021	MOTION HEARING ADJOURNED	MOTION HEARING ADJOURNED TO 9/13/21 AT 10 AM PER ATTY WEBSTER'S RE-RFH The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 08/16/2021 at 10:00 am has been resulted as follows: Result: MOTION HEARING ADJOURNED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
07/21/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: (E) MTN FOR SUMMARY DISPOSITION scheduled for 08/16/2021 at 10:00 am has been rescheduled as follows: Event: (E) MTN FOR SUMMARY DISPOSITION Date: 09/13/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER Result: ADJOURNED-BY COURT			
08/09/2021	MOTION FOR SUMMARY DISPOSITION	MOTION FOR SUMMARY DISPOSITION (OBDH=99407989) MARK A. HACKELS MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTERCLAIM, PROOF OF SERVICE			
08/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99407984)			
08/09/2021	E-FILED REQUEST FOR HEARING	E-FILED REQUEST FOR HEARING (OBDH=99407988) E-FILED REQUEST FOR HEARING, NOTICE OF HEARING, PROOF OF SERVICE			
08/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99407986)			
08/09/2021	EXHIBITS FILED	EXHIBITS FILED (OBDH=99407991) EXHIBITS A-G TO MARK A. HACKELS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTERCLAIM			
08/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99407985)			
08/09/2021	BRIEF IN SUPPORT	BRIEF IN SUPPORT (OBDH=99407992) MARK A. HACKELS BRIEF IN			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		SUPPORT OF MOTION FOR PARTIAL SUMMARY DISPOSITION ON COUNTERCLAIM, PROOF OF SERVICE			
08/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99407983)			
08/10/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: (E) MTN FOR SUMMARY DISPOSITION Date: 09/13/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: ADJOURNED-BY COURT			
08/10/2021	MOTION FEE	MOTION FEE Filing Fee mt Receipt: Date: 8/10/2021 10:16:53 AM Receipt: 1300055 Date: 08/10/2021	\$20.00		\$0.00
08/30/2021	RESPONSE TO MOTION	RESPONSE TO MOTION (OBDH=99967678) MARK HACKELS RESPONSE TO MACOMB COUNTY BOARD OF COMMISSIONERS MOTION FOR PARTIAL SUMM DISPO ON COUNTER COMPLAINT, EXHIBITS, PRF SVC			
08/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99967673)			
08/30/2021	RESPONSE TO MOTION	RESPONSE TO MOTION (OBDH=99967802) MACOMB COUNTY BOARD OF COMMISSIONERS RESPONSE IN OPPOSITION TO MARK HACKELS MOTION FOR PARTIAL SUMM DISPO ON COUNTER CLAIM & REQ FOR SUMM DISPO IN ITS FAVOR, CERT SVC			
08/30/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=99967799)			
09/09/2021	IMAGE OF EVENT NOTICE SENT	IMAGE OF EVENT NOTICE SENT (N) HEARING NOTICE Sent on: 09/09/2021 14:42:25.14			
09/09/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=100247315)			
09/13/2021	ADJOURNED-BY COURT	ADJOURNED-BY COURT The following event: MTN FOR SUMMARY DISPOSITION scheduled for 09/13/2021 at 10:00 am has been resulted as follows: Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
09/13/2021	ADJOURNED-BY COURT	ADJOURNED-BY COURT The following event: MTN FOR SUMMARY DISPOSITION scheduled for 09/13/2021 at 10:00 am has been resulted as follows: Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
09/13/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED The following event: MTN FOR SUMMARY DISPOSITION scheduled for 09/13/2021 at 10:00 am has been rescheduled as follows: Event: MTN FOR SUMMARY DISPOSITION Date: 09/27/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE WEBSTER Result: HELD-CIVIL			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
09/13/2021	HEARING: MTN FOR SUMMARY DISP SCHEDULED	HEARING: MTN FOR SUMMARY DISP SCHEDULED Event: MTN FOR SUMMARY DISPOSITION Date: 09/27/2021 Time: 10:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE VIVIANO Result: HELD-CIVIL			
09/24/2021	IMAGE OF EVENT NOTICE SENT	IMAGE OF EVENT NOTICE SENT (N) HEARING NOTICE Sent on: 09/24/2021 14:28:14.85			
09/24/2021	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=100880663)			
09/27/2021	HELD:	HELD: PLTFS MSD TKN U/A, OPIN/ORD TO ISSUE The following event: MTN FOR SUMMARY DISPOSITION scheduled for 09/27/2021 at 10:00 am has been resulted as follows: Result: HELD-CIVIL Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE HELD ON THE RECORD COURT REPORTER: VIDEO CIRCUIT Certificate #:			
09/27/2021	HELD:	HELD: DEFTS MSD TKN U/A, OPIN/ORD TO ISSUE The following event: MTN FOR SUMMARY DISPOSITION scheduled for 09/27/2021 at 10:00 am has been resulted as follows: Result: HELD-CIVIL Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE HELD ON THE RECORD COURT REPORTER: VIDEO CIRCUIT Certificate #:			
11/04/2021	SCHEDULED EVENT CANCELLED	SCHEDULED EVENT CANCELLED - PARTIES AWAITING MSD OPINION/ORDER STATUS CONF ADJ TBD The following event: STATUS CONFERENCE scheduled for 11/04/2021 at 9:00 am has been resulted as follows: Result: SCHEDULED EVENT CANCELLED Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
01/13/2022	OPINION & ORDER SIGNED	OPINION & ORDER DENYING DEFT'S MTN FOR SUMMARY DISPOSITION & GRANTING PLTF'S MTN FOR SUMMARY DISPOSITION (DOES NOT CLOSE CASE) - SGD.			
01/13/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=104426689)			
01/14/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=104675085)			
03/02/2022	STATUS CONFERENCE SCHEDULED	STATUS CONFERENCE SCHEDULED Event: STATUS CONFERENCE Date: 05/12/2022 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: HELD: NOT PLACED ON RECORD			
03/02/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=106240645)			
05/12/2022	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD - ADJ 6/23/22 @ 9AM The following event: STATUS CONFERENCE scheduled for 05/12/2022 at 9:00 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
05/12/2022	STATUS CONFERENCE SCHEDULED	<p>STATUS CONFERENCE SCHEDULED</p> <p>The following event: STATUS CONFERENCE scheduled for 05/12/2022 at 9:00 am has been rescheduled as follows:</p> <p>Event: STATUS CONFERENCE Date: 06/23/2022 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p> <p>Result: ADJOURNED-BY COURT</p>			
05/12/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=109149410)			
06/23/2022	ADJOURNED-BY COURT	<p>ADJOURNED-BY COURT - PARTIES WORKING ON PAPERWORK, ADJ TO 7/7/22 @ 9AM</p> <p>The following event: STATUS CONFERENCE scheduled for 06/23/2022 at 9:00 am has been resulted as follows:</p> <p>Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p>			
06/23/2022	STATUS CONFERENCE SCHEDULED	<p>STATUS CONFERENCE SCHEDULED</p> <p>The following event: STATUS CONFERENCE scheduled for 06/23/2022 at 9:00 am has been rescheduled as follows:</p> <p>Event: STATUS CONFERENCE Date: 07/07/2022 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p> <p>Result: HELD: NOT PLACED ON RECORD</p>			
06/23/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=110397226)			
07/07/2022	HELD: NOT PLACED ON RECORD,	<p>HELD: NOT PLACED ON RECORD - ADJ TO 7/28/22 @ 9AM AS CONTROL DATE</p> <p>The following event: STATUS CONFERENCE scheduled for 07/07/2022 at 9:00 am has been resulted as follows:</p> <p>Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p>			
07/07/2022	STATUS CONFERENCE SCHEDULED	<p>STATUS CONFERENCE SCHEDULED</p> <p>The following event: STATUS CONFERENCE scheduled for 07/07/2022 at 9:00 am has been rescheduled as follows:</p> <p>Event: STATUS CONFERENCE Date: 07/28/2022 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p> <p>Result: ADJOURNED-BY COURT</p>			
07/07/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=110875207)			
07/22/2022	ADJOURNED-BY COURT	<p>ADJOURNED-BY COURT TO 8/12/22 @ 9AM PER PLTF REQUEST</p> <p>The following event: STATUS CONFERENCE scheduled for 07/28/2022 at 9:00 am has been resulted as follows:</p> <p>Result: ADJOURNED-BY COURT Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE</p>			
07/22/2022	STATUS CONFERENCE SCHEDULED	<p>STATUS CONFERENCE SCHEDULED</p> <p>The following event: STATUS CONFERENCE scheduled for 07/28/2022 at 9:00 am has been rescheduled as follows:</p>			

<u>Date</u>	<u>Description</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Amount Due</u>
		Event: STATUS CONFERENCE Date: 08/11/2022 Time: 9:00 am Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE Result: HELD: NOT PLACED ON RECORD			
07/22/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=111528853)			
08/11/2022	HELD: NOT PLACED ON RECORD,	HELD: NOT PLACED ON RECORD - PARTIES SETTLED CASE, STIPULATED ORDER OF DISMISSAL TO BE ENTERED SHORTLY. The following event: STATUS CONFERENCE scheduled for 08/11/2022 at 9:00 am has been resulted as follows: Result: HELD: NOT PLACED ON RECORD Judge: MACERONI, JAMES M Location: COURT BUILDING - 4TH FLOOR - COURTROOM 4NE			
08/11/2022	DISMISSAL/JUDGMENT TO ENTER	DISMISSAL/JUDGMENT TO ENTER			
08/11/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=112133645)			
08/12/2022	DISMISS WITH PREJUDICE	DISMISS WITH PREJUDICE (OBDH=112133648) S/O DISMISS WITH PREJUDICE SGD (CLOSES)			
08/12/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=112184608)			
08/30/2022	REPORTER/RECORDER'S CERTIFICATE OF ORDER OF TRANSCRIPT ON APPEAL	REPORTER/RECORDER'S CERTIFICATE OF ORDER OF TRANSCRIPT ON APPEAL (OBDH=112677350) REPORTER/RECORDERS CERTIFICATE OF ORDER OF TRANSCRIPT ON APPEAL			
08/30/2022	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=112677349)			
10/03/2022	E-FILED TRANSCRIPT OF:	E-FILED TRANSCRIPT OF: (OBDH=113821554) E-FILED TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE JAMES M. MACERONI DATED SEPTEMBER 27, 2021			
10/03/2022	REPORTER'S NOTICE OF FILING TRANSCRIPT; CERTIFICATE OF SERVICE	REPORTER'S NOTICE OF FILING TRANSCRIPT; CERTIFICATE OF SERVICE (OBDH=113821555) REPORTERS NOTICE OF FILING TRANSCRIPT W/ CERT SVC			
10/04/2022	E-FILED TRANSCRIPT OF:	E-FILED TRANSCRIPT OF: (OBDH=113885684) E-FILED TRANSCRIPT OF: PROCEEDINGS BEFORE THE HONORABLE JAMES M. MACERONI ON SEPTEMBER 27, 2021			
12/20/2022	SENT TO COURT OF APPEALS	SENT TO COURT OF APPEALS REGISTER OF ACTIONS COMPLETE ELECTRONIC FILE TRANSCRIPT DATED 9-27-21			
11/15/2023	PROOF OF SERVICE	PROOF OF SERVICE (OBDH=131828303) PROOF OF SERVICE ON NOTICE OF FILING APPLICATION FOR LEAVE TO APPEAL			
11/15/2023	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=131828297)			
11/15/2023	APPLICATION FOR LEAVE TO APPEAL	APPLICATION FOR LEAVE TO APPEAL (OBDH=131828304) APPLICATION FOR LEAVE TO APPEAL			
11/15/2023	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=131828298)			
06/28/2024	IMAGE OF EVENT NOTICE SENT	IMAGE OF EVENT NOTICE SENT (N) HEARING NOTICE Sent on: 06/28/2024 10:29:39.52			
06/28/2024	TRUEFILING PROOF OF SERVICE	TRUEFILING PROOF OF SERVICE (OBDH=139368943)			

MSC Appendix 000046

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TAB 3

STATE OF MICHIGAN

SIXTEENTH JUDICIAL CIRCUIT COURT

MARK A. HACKEL, in his capacity as
Macomb County Executive,

Case No. 2018-1252-CZ

Plaintiff/Counter-Defendant,

vs.

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Defendant/Counter-Plaintiff.

_____ /

OPINION AND ORDER

This matter is before the Court on the parties' motions for partial summary disposition of the Macomb County Board of Commissioners' counterclaim seeking declaratory judgment and a writ of mandamus compelling the Macomb County Executive to comply with an ordinance granting the Director of Legislative Affairs for the Board of Commissioners "real-time, read-only access to the financial software program the County uses."

I. Background

On March 28, 2018, Macomb County Executive Mark Hackel ("County Executive") initiated the instant action against the Macomb County Board of Commissioners ("Commission"). On May 30, 2018, the Commission filed a counterclaim against the County Executive seeking, in pertinent part, a declaratory judgment and a writ of mandamus compelling the Macomb County Executive to comply with Ordinance 2017-04 § 10(H), which required the County Executive to

grant “real-time, read-only access by the Director of Legislative Affairs to the Commission to the financial software program used by the County.”¹

On June 30, 2021, the Commission filed a motion for partial summary disposition on its counterclaim concerning access to Macomb County’s financial software programs under MCR 2.116(C)(9) and (10). On August 9, 2021, the County Executive filed a motion for summary disposition on the same issue pursuant to MCR 2.116(C)(8) and (10). On August 30, 2021, the County Executive filed a response in opposition to the Commission’s dispositive motion. On the same date, the Commission filed a response to the County Executive’s dispositive motion and requested that a judgment be entered in its favor under MCR 2.116(I)(2). On September 27, 2021, the Court heard the parties’ arguments and took the motions under advisement.

II. Standards of Review

MCR 2.116(C)(8)

“Summary disposition may be granted pursuant to MCR 2.116(C)(8) on the ground that the opposing party “has failed to state a claim on which relief can be granted.” *Carter v Ann Arbor City Attorney*, 271 Mich App 425, 426-427; 722 NW2d 243 (2006). “A motion for summary disposition brought under MCR 2.116(C)(8) tests the legal sufficiency of the complaint on the basis of the pleadings alone.” *Beaudrie v Henderson*, 465 Mich 124, 129; 631 NW2d 308 (2001).

“In assessing a motion brought under MCR 2.116(C)(8), all factual allegations are accepted as

¹ Although this provision was included in Macomb County’s annual comprehensive general appropriations ordinance, which have a lifespan of one year, the Commission included similar language in all subsequent budget appropriation ordinances. Ordinance 2020-08 § 10(G), which is currently in effect, provides that the “Director of Legislative Affairs for the Board of Commissioners shall be given real-time, read-only access to any and all financial software programs the County uses, including, but not limited to ONESolution.” The County Executive contends that the current provision is more broadly worded than the original Ordinance and potentially encompasses different issues and parties. The County Executive concedes that the original Ordinance dealt with OneSolution but claims this new language may also include more than 20 other financial software systems used by various County departments. However, these issues are not properly before the Court. Accordingly, the Court shall only address the requirement concerning access to OneSolution

true, as well as any reasonable inferences or conclusions that can be drawn from the facts.” *Carter*, 271 Mich App at 427. “Conclusory statements, unsupported by factual allegations, are insufficient to state a cause of action.” *Churella v Pioneer State Mut Ins Co*, 258 Mich App 260, 272; 671 NW2d 125 (2003). “The motion should be granted only when the claim is so clearly unenforceable as a matter of law that no factual development could possibly justify a right of recovery.” *Cork v Applebee’s of Michigan, Inc*, 239 Mich App 311, 315; 608 NW2d 62 (2000).

MCR 2.116(C)(9)

Summary disposition should be granted under MCR 2.116(C)(9) if a defendant fails to plead a valid defense to a claim. *Village of Dimondale v Grable*, 240 Mich App 553, 564; 618 NW2d 23 (2000). “A motion under MCR 2.116(C)(9) tests the sufficiency of a defendant’s pleadings by accepting all well-pleaded allegations as true.” *Id.* at 564. If the defenses are “so clearly untenable as a matter of law that no factual development could possibly deny plaintiff’s right to recovery” then summary disposition under this rule is proper. *Domako v Rowe*, 184 Mich App 137, 142; 457 NW2d 107 (1990) (internal quotation and citation omitted)

MCR 2.116(C)(10)

“A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint.” *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). “A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) when the affidavits or other documentary evidence, viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact and the moving party is therefore entitled to judgment as a matter of law.” *Lowrey v LMPS & LMPJ, Inc*, 500 Mich 1, 5; 890 NW2d 344 (2016). The moving party may satisfy its burden by submitting affirmative evidence that negates an essential element of the nonmoving party’s claim, or by demonstrating that the nonmoving party’s evidence is insufficient

to establish an essential element of the nonmoving party's claim. *Id.* at 7. If the moving party has satisfied its burden and the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, summary disposition is appropriate. *Id.* A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. *Debano-Griffin v Lake Co*, 493 Mich 167, 175; 828 NW2d 634 (2013).

MCR 2.116(I)(2)

If the trial court is satisfied that “the opposing party, rather than the moving party, is entitled to judgment, the court may render judgment in favor of the opposing party.” MCR 2.116(I)(2). In other words, the trial court may grant summary disposition to the nonmoving party if it is entitled to judgment as a matter of law. *Washburn v Michailoff*, 240 Mich App 669, 672; 613 NW2d 405 (2000).

III. Law & Analysis

The Commission asks the Court to enter a declaratory judgment and a writ of mandamus compelling the County Executive to comply with the Ordinance, which purports to give the Commission's Director of Legislative Affairs real-time, read-only access to Macomb County's financial software system. Conversely, the County Executive contends that the Ordinance is void and unenforceable because it unlawfully infringes on his authority under the Home Rule Charter of Macomb County (“Charter”).

“It is well established in Michigan that ordinances are presumed valid and the burden is on the person challenging the ordinance to rebut the presumption.” *City of Detroit v Qualls*, 434 Mich 340, 364; 454 NW2d 374 (1990). “However, a city may not validly enact an ordinance that contradicts limitations expressly provided in the city's charter.” *Bivens v Grand Rapids*, 443 Mich 391, 400; 505 NW2d 239 (1993). Accordingly, “an ordinance must conform to, be subordinate to,

not conflict with, and not exceed the charter, and can no more change or limit the effect of the charter than a legislative act can modify or supersede a provision of the constitution of the state.” *Id.* at 401. “Although, in general, provisions of the law on the same or similar subject must be construed as harmonious, where an ordinance and a charter conflict, the express terms of the charter take precedence.” *Wayne Co v Wayne Co Ret Com’n*, 267 Mich App 230, 250-251; 704 NW2d 117 (2005).

There is no dispute that the Charter governs “the [County Executive’s] authority, duties, and responsibilities and for the county board of commissioners’ authority, duties, and responsibilities.” *Hackel v Macomb Co Com’n*, 298 Mich App 311, 317; 826 NW2d 753 (2012)(citing MCL 45.514(1)). “County charter provisions are subject to the same rules of interpretation as are statutes.” *Id.* “When construing a statute, every word should be given meaning in order to avoid a construction that would render any part of the statute surplusage or nugatory.” *Id.* “When the language of a charter provision is unambiguous, it controls.” *Id.* “The framers of the charter and the people who voted to adopt it, must be presumed to have intended that the provision be construed as it reads.” *Id.*

Article III, § 3.1 of the Charter vests executive power in the County Executive. Article III, § 3.5 provides in pertinent part:

The Executive has the authority, duty, and responsibility to:

(a) Supervise, coordinate, direct, and control all County departments[,] facilities, operations, and services except as otherwise provided by this Charter or law;

(c) Discharge the duties granted the Executive by this Charter, law, or ordinance, and exercise all incidental powers necessary or convenient for the discharge of the duties and functions specified in this Charter or lawfully delegated to the Executive;

(j) Submit to the Commission a proposed annual budget[.]

Article III, § 3.7 requires the County Executive to file a quarterly report with the Commission on the financial condition of the County and sets forth detailed requirements regarding its contents. Article III, § 3.9 grants the County Executive the power to veto an ordinance and a line item of an ordinance appropriating money.

Article IV, § 4.1 establishes that the legislative power is vested in the Commission. Article IV, § 4.4 describes the powers and duties of the Commission in relevant part:

In addition to other powers and duties prescribed in this Charter, the Commission may:

(a) Adopt, amend, or repeal ordinances or resolutions;

(j) Exercise any power granted by law to charter or general law counties unless otherwise provided by this Charter.

Article IV, § 4.5 provides that the Commissions' enumerated powers are not exclusive:

The enumeration of powers in this Charter shall not be held or deemed to be exclusive. In addition to the powers enumerated in this Charter, implied by this Charter, or appropriate to the exercise of the powers enumerated in this Charter, the Commission shall have and may exercise all legislative powers which this Charter could specifically enumerate as provided by the Constitution and the laws of the State of Michigan.

Article VII, § 7.4 mandates that the Finance Department “[e]ffectuate the provisions of Article VIII” and “administer financial affairs of the County in accordance with law.” Article VIII sets forth various requirements concerning management of the County’s finances, including the obligation of the County Executive, with the consent of the Audit Committee, to hire an independent certified public accountant to conduct an annual independent audit as required by law.

§ 8.3.1. The Charter provides that “[f]inancial reports and audits shall be prepared, transmitted, and filed as required by law and ordinance and shall be available for public inspection.” § 8.3.2. The Charter requires the County Executive to “prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies” and to “transmit the

comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins.” § 8.6.1. Additionally, § 8.6.1 requires the County Executive to also provide the Commission with “any information required by the Commission, law, or ordinance.” Finally, § 8.7 provides that the Commission “shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.”

In this case, the County Executive contends that the power to “[s]upervise, coordinate, direct, and control all County departments[,] facilities, operations and services” provides him the authority to “supervise, coordinate, direct, and control” the Finance Department, including all issues related to the selection of, access to, and security for the County’s financial software system. The County Executive claims that the ability to control the County’s financial software and the discretion to control who gets access to it – lies at the heart of the Finance Department’s duty to “administer the financial affairs of the County in accordance with the law.” Accordingly, the County Executive asserts that the Charter grants him the power to restrict access to OneSolution under the terms of Macomb County’s Information Technology Security Policy (“IT Policy”) pursuant to his exclusive authority to supervise, coordinate, direct, and control the Finance Department and administer the county’s financial affairs.

For its part, the Commission contends that the County Executive’s challenge to the validity of the Ordinance requires a selective reading of Charter provisions which ignores the Commission’s broad legislative authority under Article IV, §§ 4.1, 4.4(a), 4.4(j), and 4.5 and Article VIII, § 8.7. The Commission also claims that the County Executive’s interpretation ignores the express limiting language in Article III, § 3.5(a)(“except as otherwise provided by this Charter or law”), and Article VII, § 7.4(b)(“in accordance with law”). The Commission notes that the Uniform Budgeting and Accounting Act (“UBAA”) provides that the “chief administrative officer

shall furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget.” MCL 131.434(5).

Because the Charter does not define the terms “supervise,” “coordinate,” “direct,” and “control,” the Court “may rely on a dictionary definition to give an otherwise undefined word its plain and ordinary meaning.” *Hackel*, 298 Mich App at 319. “Supervise” means “to be in charge of.”² “Direct” means “to regulate the activities or course of,” “to carry out the organizing, energizing, and supervising of,” and “to dominate and determine the course of.”³ “Coordinate” means “to bring into a common action, movement, or condition,” and to “harmonize.”⁴ “Control” means “to have power over,” “to direct the actions or function of,” and “to cause something to act or function in a certain way.”⁵ The Court is satisfied that the authority “to be in charge of” the Finance Department, “to regulate the activities or course of” the Finance Department, “to dominate and determine the course of” the Finance Department, and “to have power over” the Finance Department necessarily includes the responsibility to administer the County’s IT Policy and the discretion to determine who has access to the County’s financial software system.

Therefore, because the Ordinance unlawfully infringes on the County Executive’s Charter power to “supervise, coordinate, direct, and control” the Finance Department by purporting to prescribe access to the County’s financial software system prohibited by the County’s IT Policy, the Commission’s motion for summary disposition is properly denied, and the County Executive’s motion for summary disposition is properly granted.⁶

IV. Conclusion

² <https://www.merriam-webster.com/dictionary/supervise> (accessed January 3, 2022).

³ <https://www.merriam-webster.com/dictionary/direct> (accessed January 3, 2022).

⁴ <https://www.merriam-webster.com/dictionary/coordinate> (accessed January 3, 2022).

⁵ <https://www.merriam-webster.com/dictionary/control> (accessed January 3, 2022).


⁶ In light of the Court’s conclusion, it is unnecessary to address the parties’ remaining arguments.

For the reasons set forth above, the Commission's motion for summary disposition is DENIED, and the County Executive's motion for summary disposition is GRANTED.

IT IS SO ORDERED.



Date: January 13, 2021
JMM/nmm


HON. JAMES M. MACERONI P61759
Circuit Court Judge
/S/ JAMES MACERONI
CIRCUIT COURT JUDGE, P61759

01/13/2022

TAB 4



CHARTER COMMISSION

10 North Main Street, 6th Floor
Mount Clemens, MI 48043

Phone: 586-463-2674 Fax: 586-463-2603

Website: www.macombcountymi.gov/clerksoffice/charter

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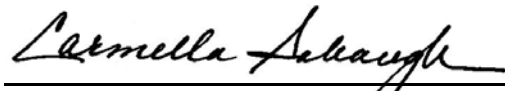
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I, Carmella Sabaugh, Clerk of the Macomb County Charter Commission, do hereby certify that the following resolution was approved by the Macomb County Charter Commission at its Regular Meeting held on the 17th of June, 2009.

RESOLVED, that the Macomb County Charter Commission approves the Home Rule Charter of Macomb County, Michigan, submitted to it by the Charter Commission's Legal Team on June 17, 2009, including the amendments adopted at the regular meeting of the Charter Commission on June 17, 2009.

BE IT FURTHER RESOLVED. That the approved Home Rule Charter be submitted to the Governor of the State of Michigan for approval pursuant to statute.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the Court at Mount Clemens, Michigan, this 6th day of October, 2010.



Carmella Sabaugh, Clerk

MACOMB COUNTY CHARTER COMMISSION

Matthew J. Wroblewski – District 1	Michael G. Gielniak – District 9	Jacob Femminieo, Jr. – District 17 Chair	Marilyn Lane – District 20 Vice-Chair	James F. Kelly – District 3 Secretary	David A. Willis – District 2 Treasurer
Louis J. Burdi, - District 4	Rick Flynn – District 10	Harry Awdey – District 15	Tom Rombach – District 16	Judy Hartwell – District 22	
Robert W. Slavko – District 5	Dominic LaRosa – District 11	Carrie Lynn Fuca – District 18	Robert Smith, Jr. – District 19	James Maceroni – District 23	
John Olekszyk – District 6	Vince Viviano – District 12	Nick Ciaramitaro – District 21		Cynthia Konal – District 24	
Elisabeth Sierawski – District 7	Gary S. Anthony – District 13			Charles W. Carey – District 25	
Donna S. Cangemi – District 8	James Haggerty – District 14			Monika Kreft Leasure – District 26	

HOME RULE CHARTER OF MACOMB COUNTY, MICHIGAN

Approved by the Macomb County Charter Commission
June 17, 2009

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PREAMBLE

We, the people of Macomb County, to provide a local government which is efficient, economical, and ethical, exercise our constitutional rights and adopt this Home Rule Charter.

ARTICLE I

HOME RULE/GENERAL PROVISIONS

Section 1.1 Purpose of Charter

The purpose of this Charter is to convert the County of Macomb from a general law county to a home rule county under a locally adopted charter led by home rule county officers. This Charter shall be liberally construed in favor of the County as required by Article VII, Section 34 of the Constitution.

Section 1.2 Home Rule Powers

The home rule County of Macomb possesses home rule power as granted by Article VII, Section 2 of the Constitution to provide for any matter of County concern together with all other powers which a county may possess under the Constitution and laws of this state. The enumeration of powers in this Charter shall not be construed to exclude or limit other powers possessed by the County by implication or operation of law.

Section 1.3 Boundaries of County

The boundaries of the County existing when this Charter takes effect shall continue until changed in accordance with law.

Section 1.4 Definitions

As used in this Charter:

- (a) *Adopted, approval, approved, and confirmed* mean actions of the Commission requiring the affirmative vote of a Majority of Commissioners.
- (b) *Agency* means a department, office, board, commission, or other administrative unit of County government, whether created by Charter, ordinance, or law.
- (c) *Appointee* means a person appointed to a compensated or uncompensated position in County government that is not subject to a collective bargaining agreement, who is not elected to or holding an office that is subject to an election, and whose appointment is subject to the approval of the Commission or who is exempt from such approval under Article III of this Charter.

- (d) *Commission* means the County Board of Commissioners created by this Charter.
- (e) *Commissioner* means a member of the Commission. Commissioners are home rule county officers under this Charter.
- (f) *Constitution* means the Constitution of the State of Michigan, as amended.
- (g) *County* means Macomb County, Michigan.
- (h) *Countywide Elected Official* means the holder of an office in County government which is elected on a countywide basis. Countywide Elected Officials are home rule county officers under this Charter.
- (i) *Employee* means a person hired and employed in a position in County government.
- (j) *Ethics Board* means the Board of Ethics as created in this Charter.
- (k) *Ethics Board Member* means a member of the Board of Ethics.
- (l) *Executive* means the person holding the office of County Executive created by this Charter.
- (m) *Including and included* mean including, or included, without limitation.
- (n) *Majority* of the Commission or other multi-member body means a majority of the non-vacant positions.
- (o) *Organization Plan* means a plan of organization or reorganization proposed and approved as provided in this Charter.
- (p) *Public Servant* means a Countywide Elected Official, Commissioner, Appointee, or Employee.

ARTICLE II

ETHICS

Section 2.1 Standards

Public Servants of the County shall observe the highest standards of ethical conduct and are obligated to:

- (a) Comply with all laws and policies of County government;
- (b) Be independent, impartial, and fair in their judgment and actions;
- (c) Use their public office for the public good, not for personal gain;
- (d) Conduct public business openly, as provided by law, in an atmosphere of respect and civility; and
- (e) Cooperate fully with any request of the Ethics Board for information or assistance, subject to law.

Section 2.2 Ethics Ordinance Mandated

Within 1 year after the effective date of this Charter, the Commission shall adopt an ethics ordinance governing all Public Servants.

Section 2.3 Ethics Ordinance Provisions

At a minimum, the ethics ordinance shall:

- (a) Define “conflict of interest” and prohibit a Public Servant from acting on a decision or transaction where an interest of the Public Servant, including a partisan political interest, is in actual or apparent conflict with an actual or apparent interest of the County.
- (b) Require a Public Servant to disclose personal interests in all contracts involving the County; the receipt of all gifts from persons doing, or seeking, or who may reasonably be expected to seek, County business; as well as other relationships which are, or may appear to be, a conflict of interest.
- (c) Define the circumstances in which acceptance of employment by a present or past Public Servant with another public or private entity is incompatible with the ethical duties of the Public Servant, and the extent to which such employment is prohibited.
- (d) Address the extent to which nepotism shall be prohibited in County hiring, appointments, and promotional decisions.
- (e) Define and prohibit all inappropriate political activity by Public Servants, including improper use of County time and property.
- (f) Define “confidential information of the County” and prohibit its disclosure by a Public Servant to a third party.
- (g) Define and prohibit the use of County resources and assets by a Public Servant for private purposes or commercial gain.
- (h) Define the disclosure requirements for potential and existing County vendors.
- (i) Provide sanctions for violations of the ethics ordinance.

Section 2.4 Board of Ethics

2.4.1 The Board of Ethics is created.

2.4.2 The Ethics Board consists of 5 members, nominated by the Executive and subject to approval by the Commission. The Commission shall vote on approval within 60 days of receipt of a nomination from the Executive. If the Commission fails to act upon a nomination within that time, the Executive’s nomination becomes effective.

2.4.3 Ethics Board Members serve without compensation.

2.4.4 Ethics Board Members are appointed for 5-year terms, with the terms of not more than 2 Ethics Board Members expiring in any 1 year. Of the initial appointments, 2 shall expire February 1, 2013, 2 shall expire February 1, 2014, and 1 shall expire February 1, 2015.

2.4.5 Ethics Board Members must be qualified electors in the County.

2.4.6 Persons who have been Public Servants, other than unpaid Appointees, at any time in the preceding 2 years, their immediate family members, and other individuals as provided by ordinance, are ineligible to serve on the Ethics Board.

2.4.7 An Ethics Board Member may not be an officer of a political party.

2.4.8 An Ethics Board Member may be removed by the Executive for cause with the approval of the Commission.

Section 2.5 Powers and Duties of the Ethics Board

2.5.1 Within 180 days after approval of the 5 initial Ethics Board Members, the Ethics Board shall propose rules of procedure for the enforcement of the ethics provisions of this Charter, ordinance, and law, and submit them to the Commission for approval by resolution. The approved rules shall be filed with the County Clerk. If the Commission fails to approve or reject the proposed rules within 60 days after submission, the rules become effective.

2.5.2 The Ethics Board may prepare educational materials regarding applicable ethics standards after consultation with the affected Agencies and conduct training programs for Public Servants.

2.5.3 The Ethics Board shall provide a procedure whereby a Public Servant may obtain informal guidance for understanding and complying with applicable ethics standards.

2.5.4 On the request of a Public Servant, or the supervisor of an Employee, concerning action by the Public Servant, the Ethics Board may render an advisory opinion.

Section 2.6 Complaints and Sanctions

2.6.1 A complaint alleging violation of an applicable ethics provision may be filed with the Ethics Board. The complaint must be signed by the complainant whose identity, as well as all information relating to the complaint, shall be kept confidential except as required by law or ordinance. Whenever an Agency receives a complaint alleging an ethics violation or determines that an ethics violation may have occurred, it shall refer the matter to the Ethics Board.

2.6.2 If the Ethics Board determines that a complaint is supported by probable cause, it shall proceed to resolve the complaint in accordance with its rules of procedure, which shall include notice and an opportunity to be heard. The Ethics Board may subpoena witnesses, compel the production of evidence, and administer oaths.

2.6.3 The Ethics Board may investigate any matter related to its responsibilities.

2.6.4 The Ethics Board may seek the assistance of Corporation Counsel or, with the approval of the Commission, may retain outside counsel.

2.6.5 Ethics Board determinations are final, reviewable only by a court as provided by law.

Section 2.7 Retaliation Prohibited

A Public Servant shall not take retaliatory action of any type against the complainant or a witness, and any such retaliatory action is itself a violation of the ethics provisions of the County.

Section 2.8 Annual Report

The Ethics Board shall submit an annual report to the Commission as required by ordinance.

Section 2.9 Exemption from Reorganization

The Ethics Board is exempt from reorganization under an Organization Plan.

Section 2.10 Funding

The County shall provide an annual appropriation and resources sufficient to enable the Ethics Board to perform its duties.

ARTICLE III

EXECUTIVE

Section 3.1 Executive

The office of County Executive is created and the executive power of the County is vested in the Executive, who is the head of the executive branch of County government.

Section 3.2 Election and Term

The Executive shall be elected at large on a partisan basis for a 4-year term. State law procedures and deadlines applicable to filing for office by candidates for Countywide Elected Officials elected under Article VI, and the conduct and canvass of such county elections, shall also apply to the office of Executive, except the Executive shall be elected for a term concurrent with the term of the governor.

Section 3.3 Qualifications of the Executive

A person who is a registered and qualified elector in the County as of the filing deadline for the office of Executive is qualified to serve as the Executive.

Section 3.4 Office at County Seat

The principal office of the Executive shall be at the County seat.

Section 3.5 Authority, Duties, and Responsibilities

The Executive has the authority, duty, and responsibility to:

- (a) Supervise, coordinate, direct, and control all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law;
- (b) Enforce all laws in the County except as provided for by this Charter or law;
- (c) Discharge the duties granted the Executive by this Charter, law, or ordinance, and exercise all incidental powers necessary or convenient for the discharge of the duties and functions specified in this Charter or lawfully delegated to the Executive;
- (d) Submit reports and recommendations to the Commission on matters affecting the County;
- (e) Exercise powers and duties required for emergency preparedness;
- (f) Receive community information concerning County services;
- (g) Maintain intergovernmental relations and advocate or develop proposed legislation beneficial to County interests;
- (h) Coordinate economic development programs, countywide planning, and marketing of the County;
- (i) Promote the preservation of the natural resources of the County;
- (j) Submit to the Commission a proposed annual budget; and
- (k) Maintain no other full-time employment.

Section 3.6 Organization Plan

3.6.1 Except as provided in Article XI, within 90 days after the start of a new term of office the Executive shall submit a proposed Organization Plan to the Commission which includes an explanation of the reasons for the plan and an evaluation of its financial impact.

3.6.2 The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

3.6.3 The Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.

3.6.4 The Commission shall hold a public hearing on the proposed Organization Plan or any proposed amendment within 50 days after its submission and must either approve, with or without amendment, or reject the proposed Organization Plan or any proposed amendment within 75 days after its submission.

Section 3.7 Report of County Financial Condition

The Executive shall file a report with the Commission on the financial condition of the County at least quarterly. The report shall include:

- (a) A comparison of actual revenues to budgeted revenues for the current fiscal year;
- (b) A comparison of actual expenditures to budgeted expenditures for the current fiscal year;
- (c) Any revisions to the original revenue estimates and/or expenditure estimates; and
- (d) Additional information required by ordinance or law.

Section 3.8 Appointments

Unless otherwise provided by this Charter or law:

- (a) The Executive shall appoint the Deputy County Executive, executive staff, department directors, members of boards and commissions, County representatives on intergovernmental bodies, and all other appointed officials or representatives;
- (b) With the exception of the Deputy County Executive, appointments by the Executive require approval by the Commission unless such appointments are exempted from approval by this Charter or law. If the Commission fails to approve or reject a proposed appointment within 75 days after its submission, the appointment becomes effective;
- (c) Countywide Elected Officials provided for in Article VI of this Charter are exempt from this section;
- (d) The Executive may appoint a confidential secretary, up to 3 administrative assistants, and unpaid advisory boards and commissions, all of whom are exempt from approval by the Commission;
- (e) Appointees of the Executive shall serve at will, at the pleasure of the Executive unless otherwise provided by law or contract; and
- (f) The department of Human Resources and Labor Relations shall establish and adopt qualifications and criteria for the appointment of department directors and other Appointees.

Section 3.9 Veto Authority

Unless prohibited by law, the Executive may veto an ordinance, a line item of an ordinance appropriating money, or a resolution having the effect of law or approving a contract, by transmitting to the Commission notice of the veto and reasons for the veto. If the Executive

fails to exercise the veto within 10 business days after receipt of the ordinance by the Executive or within 10 business days after the adoption of a resolution, the action of the Commission takes effect.

Section 3.10 Intergovernmental Relations

The Executive, with the approval of the Commission and concurrence of each Countywide Elected Official whose department will be required to allocate or transfer resources, may:

- (a) Enter into any intergovernmental contract which is not specifically prohibited by law;
- (b) Join, establish, or form with any other governmental unit an intergovernmental district or authority to perform a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law;
- (c) Accept, upon mutually agreed conditions, the transfer of performance of any municipal function or service from a governmental unit wholly or partially within the County, if the performance of that function or service by the County is not specifically prohibited by law, and if the function or service is offered on a countywide basis; and
- (d) Provide by contract services or functions in a political subdivision of the County with the agreement of the legislative body of that subdivision and with approval of the contract by the Commission. The cost of services or functions provided to a political subdivision of the County, but not provided countywide, shall be paid by the political subdivision in which the services or functions are performed. The revenues collected for the contracted services or functions shall be used first to pay for the contracted services.

Section 3.11 Deputy County Executive

The Office of the Deputy County Executive is created. The Deputy County Executive shall exercise the powers and duties of the Executive if the office is vacant or if the Executive is absent or disabled. The Deputy County Executive shall also perform the powers and duties delegated by the Executive.

Section 3.12 Removal by Governor

The Executive may be removed from office by the governor for the same reasons and with the same due process as provided by law for the sheriff, prosecuting attorney, county clerk, and county treasurer.

Section 3.13 Removal for Incapacity

The Executive may be removed from office upon the affirmative vote of not less than 3/4 of the Commissioners serving after a public hearing upon a finding that the Executive is unable by reason of incapacity to perform the duties of office. The decision of the Commission may be appealed by the Executive to the Circuit Court for a de novo review.

Section 3.14 Vacancies

3.14.1 The office of the Executive becomes vacant in the manner provided by law for the offices of sheriff, prosecuting attorney, county clerk, and county treasurer.

3.14.2 If a person elected to the office of Executive dies before the commencement of the term of office, a vacancy exists which shall be filled within 15 days after the beginning of the term.

Section 3.15 Filling a Vacancy

A vacancy in the office of the Executive shall be filled in the following manner:

- (a) The county clerk, the prosecuting attorney, the sheriff, the treasurer, and the chairperson of the Commission shall, at a public meeting, appoint by a Majority a person to fill the vacancy within 60 days for the remainder of the unexpired term and until a successor is elected and qualified.
- (b) The office of the Executive shall be filled in the case of vacancy by holding a special primary election on the next August election day, in the manner provided by law, followed by a special election to be held on the next November election day for which it is possible to place the office of Executive on the ballot in the manner provided by law. The successor so elected shall hold the office for the remainder of the unexpired term.

Section 3.16 Transfers of Property and Records

All property, records, and equipment of any Agency affected by this Charter or an Organization Plan shall be transferred to the appropriate Agency as directed by the Executive.

Section 3.17 Signature

All contracts and instruments binding the County shall be signed by the Executive or designee of the Executive.

Section 3.18 Emergency Management

The emergency management functions of the County shall be vested in the Executive, who may direct the emergency management coordinator and execute the emergency management plan of the County.

ARTICLE IV

LEGISLATIVE

Section 4.1 Commission

The Commission is created and the legislative power of the County is vested in the Commission. The Commission consists of 13 members elected for terms concurrent with State Representatives on a partisan basis from single member districts established by the County Apportionment Commission as provided in Article V.

Section 4.2 Qualifications of a Commissioner

A person who is a registered and qualified elector in the Commissioner district where the person resides as of the deadline for filing to run for the office of Commissioner is qualified to serve as a Commissioner for that district, unless the person is otherwise prohibited by law from holding the office of Commissioner.

Section 4.3 Meetings, Rules, and Procedures

At the first meeting of each new term, the Commission shall elect a chairperson and its other officers and establish its rules of procedure and its regular monthly meeting schedule. A Majority of the Commission constitutes a quorum.

Section 4.4 Powers and Duties

In addition to other powers and duties prescribed in this Charter, the Commission may:

- (a) Adopt, amend, or repeal ordinances or resolutions;
- (b) Establish committees of the Commission necessary to efficiently conduct the business of the Commission;
- (c) Appropriate funds, levy taxes, fees, and other charges, and authorize borrowing as provided by this Charter and applicable laws;
- (d) Approve contracts of the County;
- (e) Approve or reject appointments by the Executive as provided by this Charter;
- (f) Override a veto by the Executive within 30 days by at least 2/3 of the Commissioners serving;
- (g) Subpoena individuals, compel the production of records, and administer oaths;
- (h) Appoint, approve, and remove members of committees, boards, and commissions as provided by this Charter or law;
- (i) Submit tax and ballot proposals to the electorate; and
- (j) Exercise any power granted by law to charter or general law counties unless otherwise provided by this Charter.

Section 4.5 Enumerated Powers Not Exclusive

The enumeration of powers in this Charter shall not be held or deemed to be exclusive. In addition to the powers enumerated in this Charter, implied by this Charter, or appropriate to the exercise of the powers enumerated in this Charter, the Commission shall have and may exercise all legislative powers which this Charter could specifically enumerate as provided by the Constitution and the laws of the State of Michigan.

Section 4.6 Ordinances and Resolutions

The Commission shall act by ordinance if required by this Charter or law, otherwise by resolution. All acts of the Commission imposing a penalty shall be by ordinance.

Section 4.7 Ordination, Adoption, and Publication

The Commission shall, within 180 days after the effective date of this Charter, adopt an ordinance providing for codification of ordinances and the preservation and indexing of resolutions.

Section 4.8 Vacancies

4.8.1 A vacancy occurs in the office of a Commissioner by death, resignation, removal of residency from the district, or removal from office.

4.8.2 A vacancy shall be filled by appointment of a registered and qualified elector of the district in which he or she is to be appointed within 30 days by a Majority of Commissioners. The appointee shall take office upon filing the oath of office with the County Clerk after the meeting at which the appointment is made.

4.8.3 If the vacancy is filled in the first year of the term, the appointee shall serve until a successor is elected in a special election called by the Commission in accordance with law. If the vacancy is filled in the second year of the term, the appointee shall serve out the unexpired term.

Section 4.9 Removal for Incapacity

A Commissioner may be removed from office upon the affirmative vote of not less than 3/4 of the Commissioners serving after a public hearing upon a finding that the Commissioner is unable by reason of incapacity to perform the duties of office. The decision of the Commission may be appealed by the Commissioner to the Circuit Court for a de novo review.

Section 4.10 Independent Counsel

Independent counsel may be retained by the Commission to provide legal services for specific projects or issues relative to its powers and duties as deemed necessary by the Commission. The process for retaining an independent counsel shall be established by an ordinance not subject to veto by the Executive. The independent counsel shall be an attorney or

attorneys licensed to practice law in Michigan. The independent counsel shall not be an Employee of the County.

ARTICLE V

APPORTIONMENT AND ELECTIONS

Section 5.1 Apportionment of County Commission Districts

The County Apportionment Commission shall establish Commission districts in the manner required by law within 60 days after the most recent final decennial census figures are certified by the United States Government. The districts shall be contiguous, compact, and as nearly square as practicable, depending on the geography of County area involved, without regard to partisan political advantage. The districts shall be drawn so that each city and township has the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district. All districts shall be single member districts and as equal in population as practicable. Townships, villages, cities, and precincts shall be divided only if necessary to meet the population standard.

Section 5.2 County Apportionment Commission

Unless otherwise required by law, the County Apportionment Commission consists of the County Clerk, the County Treasurer, the Prosecuting Attorney, and the statutory County chairperson of each of the 2 political parties whose candidates for Secretary of State received the most votes in the last election for that office. If the County does not have a statutory chairperson of a political party, the 2 additional members shall be a party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairperson of the state central committee for each of the political parties. The County Clerk convenes the Commission and the County Apportionment Commission shall adopt rules of procedure. Three members of the County Apportionment Commission shall constitute a quorum. All action is by Majority.

Section 5.3 Apportionment Procedure

Unless otherwise required by law, the County Apportionment Commission shall file an apportionment plan with the County Clerk, at which time the plan shall become effective. If the County Apportionment Commission has failed to submit a plan for the County within 60 days but not less than 30 days after the latest official published census figures are available or an extension granted by the Court of Appeals, any registered voter may submit a plan to the County Apportionment Commission for approval. From the plans submitted, the County Apportionment Commission shall choose a plan meeting the requirements of law. The plan chosen by the County Apportionment Commission shall be filed with the County Clerk within 30 days of the initial or extended deadline for filing its plan, at which time the plan shall become effective.

Section 5.4 Appeal of an Apportionment Plan

Unless otherwise provided by law, any registered voter of the County may, within 30 days of the filing of the plan with the County Clerk, petition the Court of Appeals to determine if the plan complies with the law and this Charter. A decision of the Court of Appeals may be appealed to the State Supreme Court as provided by law.

Section 5.5 Final Apportionment Plan

A final apportionment plan is effective until a new plan is adopted after release of the next United States official decennial census figures.

Section 5.6 Elections

The election of Countywide Elected Officials and Commissioners shall be conducted at the times and in the manner required by this Charter and law.

ARTICLE VI**DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS****Section 6.1 Sheriff**

The department of sheriff is created. The head of the department is the elected sheriff.

6.1.1 The powers and duties of the department are those provided by law for a county sheriff.

6.1.2 The department may contract with units of government within the County to provide services to such units upon approval of the Executive and the Commission.

Section 6.2 Prosecuting Attorney

The department of prosecuting attorney is created. The head of the department is the elected prosecuting attorney.

6.2.1 The powers and duties of the department are those provided by law for a prosecuting attorney.

Section 6.3 County Clerk and Register of Deeds

The departments of county clerk and register of deeds are created and shall remain combined as they existed at the effective date of this Charter. The head of the combined departments is the elected county clerk.

6.3.1 The powers and duties of the department are those provided by law for county clerks and registers of deeds.

6.3.2 The department shall maintain central records of the County as provided by law or ordinance. The county clerk, with the assistance of the Executive, shall preserve and keep all records and materials of the first and any future Charter Commission, including but not limited to, all audio and video recordings of the Charter Commission and its committees.

Section 6.4 County Treasurer

The department of county treasurer is created. The head of the department is the elected treasurer.

6.4.1 The powers and duties of the department are those provided by law for a county treasurer, including the receipt, deposit, and investment of funds belonging to and under the control of the County.

Section 6.5 Public Works

The department of public works is created. The head of the department is the elected public works commissioner.

6.5.1 The powers, duties, and functions of the department are the powers, duties, and functions of the public works commissioner combined with the powers, duties, and functions of the drain commissioner as existed at the effective date of this Charter.

6.5.2 The public works commissioner shall be elected in the same manner and for the same term as a county drain commissioner as provided by law.

Section 6.6 General Provisions

6.6.1 The Countywide Elected Officials provided for in this Article shall be elected on a partisan basis. The powers and duties specifically delegated by this Charter to departments created by this Article shall not be reassigned by an Organization Plan, but additional powers and duties may be assigned by an Organization Plan to any department.

6.6.2 The Countywide Elected Officials provided for in this Article shall manage their departments and exercise their powers and duties within authorized budget appropriations. These departments are part of County government and do not exist as separate or independent entities except as provided by law.

6.6.3 A vacancy in an office created under this Article occurs, and shall be filled within 90 days, in the manner provided by law. If the next general November election is to be held more than 182 days after the vacancy occurs, and is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold

office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

6.6.4 The existence, organization, qualifications, powers, and duties of the Countywide Elected Officials and departments created by this Article shall continue as they existed upon the effective date of this Charter, but shall be subject to the following:

- (a) The Michigan Constitution and state law;
- (b) All Charter provisions of general or specific applicability; and
- (c) All personnel, budgeting, and expenditure recommendations of the Executive as approved by the Commission.

6.6.5 The Countywide Elected Officials provided for in this Article shall not cause the expenditure of taxpayer funds or public monies for legal counsel unless permitted by law, but may seek advice and counsel from Corporation Counsel upon request. If a Countywide Elected Official provided for in this Article desires to protect or seek authority to implement the rights, powers, and duties of the office, the Executive may authorize the use of Corporation Counsel, or the Commission may authorize the use of independent legal counsel, to seek injunctive, mandamus, or declaratory relief from a court of competent jurisdiction to clarify or enforce the rights, powers, and duties of the office. Individual departments shall not file suit against each other, and any action against the County shall name the County as a party. All actions relating to the rights, powers, or duties of a Countywide Elected Official provided for in this Article shall be solely for injunctive, mandamus, or declaratory relief against the County.

ARTICLE VII

ADDITIONAL DEPARTMENTS AND OFFICES

Section 7.1 Planning and Economic Development

7.1.1 The department of Planning and Economic Development is created. The department shall:

- (a) Promote, coordinate, and oversee economic development initiatives within the County, including those that receive or will generate public funds;
- (b) Prepare comprehensive plans for economic development and represent the County in economic development planning activities with other jurisdictions;
- (c) Assist the Executive in planning related to the properties owned by the County, and undertake planning for the development of those properties;
- (d) Make available to cities, townships, and villages in the County, at their request, advice and assistance on matters related to planning functions of the County; and
- (e) Address matters related to the planning functions of the County.

Section 7.2 Health and Community Services

7.2.1 The department of Health and Community Services is created. The department shall:

- (a) Supervise and carry out the performance of County public health and community service programs; and
- (b) Supervise and carry out environmental protection programs.

7.2.2 The office of senior services is created. The office shall coordinate the operations of the County that provide services for the aging and senior citizens, and shall serve within County government as the advocate for senior citizens. The office shall be supervised by an Appointee of the Executive subject to confirmation by the Commission. The coordination of services for the aging and for seniors and the advocacy for senior citizens may not be removed from this office by an Organization Plan.

Section 7.3 Human Resources and Labor Relations

7.3.1 The department of Human Resources and Labor Relations is created. The department of Human Resources and Labor Relations shall:

- (a) Formulate and direct the County's overall human resource program;
- (b) Negotiate all labor and employee relations matters on behalf of the County;
- (c) Administer collective bargaining agreements of the County;
- (d) Establish employment specifications and protocols for County Employees not covered by civil service; and
- (e) Assist the civil service commission.

7.3.2 Notwithstanding the requirements set forth in Section 7.3.1, the Executive shall submit all collective bargaining agreements to the Commission for final ratification or rejection.

Section 7.4 Finance

The department of Finance is created. The department of Finance shall:

- (a) Effectuate the provisions of Article VIII of this Charter; and
- (b) Administer financial affairs of the County in accordance with law.

Section 7.5 Corporation Counsel

7.5.1 The office of Corporation Counsel is created. Corporation Counsel shall be the chief legal counsel to the County and:

- (a) Direct and supervise the office of Corporation Counsel;
- (b) Represent the County, the Executive, the Commission, the department heads, and Agencies in civil legal matters affecting the County, except as provided by Charter, law, or ordinance; and

- (c) Represent the Countywide Elected Officials created by Article VI in the manner provided in Article VI of this Charter.

7.5.2 Corporation Counsel shall be appointed by the Executive and confirmed by the Commission.

7.5.3 Corporation Counsel may:

- (a) Hire assistant attorneys within budgetary appropriations in accordance with the policies of the County;
- (b) Appoint special counsel upon approval of the Commission; and
- (c) Keep the Executive and the Commission advised on pending litigation matters on a periodic basis.

7.5.4 Corporation Counsel and all assistant attorneys shall be licensed to practice law in the State of Michigan.

7.5.5 The Executive and the Commission shall include in the general fund of the annual budget for each fiscal year, such sums as the Executive and the Commission deem necessary for the Corporation Counsel to carry out its duties.

Section 7.6 General Provisions Governing Departments and Agencies

Agencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, law, Organization Plan, or the Executive.

Section 7.7 Directors

Each department created in this Article shall be headed by an at will director. With the approval of the Executive, a director may hire employees within budgetary appropriations in accordance with the policies of the County.

ARTICLE VIII

FINANCE

Section 8.1 Financial Management Principles

The County shall employ generally accepted principles of accounting, auditing, and reporting appropriate for local government and as required by law.

Section 8.2 Fiscal Year

The fiscal year of the County shall be established by ordinance as permitted by law.

Section 8.3 Independent Audit

8.3.1 The Commission shall establish from its members an Audit Committee. The Executive, with the consent of the Audit Committee, shall hire an independent certified public accountant to conduct an annual independent audit as required by law. The Audit Committee shall cause to be conducted such other audits as determined necessary by the Audit Committee, subject to the appropriations in the County's annual budget for such purpose.

8.3.2 Financial reports and audits shall be prepared, transmitted, and filed as required by law and ordinance and shall be available for public inspection.

Section 8.4 Debt Limit and Borrowing Authority

The County may borrow in accordance with applicable law, except the County shall not incur any indebtedness which shall exceed 10% of the state equalized value of the taxable property within the County.

Section 8.5 Taxing Authority

8.5.1 The County may by ordinance levy and collect any tax, fee, rent, toll, or excise authorized by law.

8.5.2 The County may levy an ad valorem property tax not in excess of 1% of the state equalized valuation of the taxable property within the County. The levy of taxes from within the ad valorem property tax limitation shall not exceed, unless otherwise approved by the electors, 5.19 mills as is adjusted currently and may be adjusted in the future by applicable constitutional and statutory requirements. An increase in the tax authorization may be approved by the voters of the County for a period of not more than 20 years.

Section 8.6 Budget Preparation and Transmittal

8.6.1 The Executive shall prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies. The Executive shall transmit the comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins. The comprehensive balanced budget prepared and recommended by the Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, and any information required by the Commission, law, or ordinance.

8.6.2 Not less than once each year the Executive shall submit to the Commission a proposed long-range capital improvement program and capital budget.

Section 8.7 Adoption of Line Item Operating Budget

Before the beginning of each fiscal year of the County, the Commission shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.

Section 8.8 Budget Deficits

8.8.1 If a deficit condition exists at the end of any fiscal year, the Executive shall submit to the governor and state legislature, upon approval by the Commission, a specific 5-year plan for short-term financial recovery and long-term financial stability prior to the adoption of the next annual budget. The 5-year plan shall include those items required by law.

8.8.2 As used in this Section, and unless otherwise provided by law, the term “deficit condition” means a situation where, at the end of a fiscal year, total expenditures, including an accrued deficit, exceed total revenues for that fiscal year, including any surplus carried forward.

Section 8.9 Transfers and Impoundments

Transfers among appropriations and impoundments of appropriations may only be made in accordance with the appropriation ordinance as adopted or amended.

Section 8.10 Purchasing

The Commission shall adopt comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment. These policies shall be consistent with federal and state law, the Charter, and ordinances, resolutions, and policies of the Commission. The Executive shall implement the policies adopted by the Commission, including requirements for competitive bidding and the use of sealed bids for purchases and contracts specified by ordinance.

Section 8.11 Budget Reductions

8.11.1 If the Executive certifies to the Commission a reduction in estimated revenue of any type that would cause an expenditure of an approved appropriation to exceed the available revenue and submits a proposed appropriation reduction, the Commission shall reduce appropriations to avoid the deficit. If the Commission fails to amend the appropriation ordinance within 45 days after the certification of the reduced revenue, the requested appropriation reduction submitted by the Executive becomes effective.

8.11.2 If the Executive certifies to the Commission that expenditures have exceeded appropriated levels and submits a proposed appropriation amendment, the Commission shall amend appropriations to avoid the deficit. If the Commission fails to amend the appropriation ordinance within 45 days after the certification of the excess expenditures, the requested appropriation amendment submitted by the Executive becomes effective.

ARTICLE IX

RETIREMENT SYSTEM

Section 9.1 Retirement System

The Macomb County Retirement System created by ordinance in effect at the time of adoption of this Charter shall continue. The accrued rights and benefits of the Countywide Elected Officials, Commissioners, and Employees of the County are recognized and this Charter shall not infringe upon or be in derogation of those accrued rights and benefits. The Commission may amend the ordinance creating the County Retirement System.

Section 9.2 Retirement Commission

The Retirement Commission existing when this Charter becomes effective shall continue, except the County's representatives on the Retirement Commission shall be the Executive or designee; the County Treasurer or designee; and the Chair of the Commission or designee. The remaining 4 members shall consist of the Chair of the Road Commission of Macomb County or designee, or director of the department responsible for its functions if the Road Commission of Macomb County is reorganized, and 3 active Employees elected by active Employees in the manner provided by the rules and regulations adopted by the Retirement Commission. One additional non-voting member shall be elected by retired County employees in the manner provided by rules and regulations to be adopted by the Retirement Commission. The term of each elected member is 3 years, with 1 term expiring each year unless otherwise provided by ordinance. Active Employees holding a position when this Charter becomes effective shall continue in those positions for the term to which they were elected. The Retirement Commission shall administer and manage the Retirement System. The costs of administration and management of the Retirement System shall be paid from the investment earnings of the Retirement System.

ARTICLE X

SPECIFIC POWERS AND PROVISIONS

Section 10.1 Civil Service

A system of civil service in effect at the effective date of this Charter shall be continued. The rights and status of persons in the civil service system are recognized and this Charter shall not infringe upon nor be in derogation of those rights and that status. This Charter does not preclude future modification of the system of civil service in the manner provided by ordinance and as permitted by law.

Section 10.2 Initiative, Referendum, and Recall

10.2.1 The people of the County reserve the powers of initiative and referendum as provided by law. The process for the exercise of such powers shall be established by ordinance. The power of initiative may be invoked by petition signed by registered electors constituting not less than 8 percent, and the power of referendum may be invoked by petition signed by registered electors constituting not less than 5 percent, of the total vote cast within the County for all candidates for governor at the last preceding general election at which a governor was elected. The power of referendum does not extend to ordinances making or reducing appropriations.

10.2.2 The people of the County reserve the power to recall Countywide Elected Officials and Commissioners as provided by law.

Section 10.3 Insurance and Bonding

Any Agency not under the direct supervision of the Commission before the effective date of this Charter shall provide to the County such insurance, bonds, and contributions to self insurance programs as the Executive shall require, upon approval by the Commission.

Section 10.4 Public Utilities

The acquisition, operation, and sale of public utility facilities by the County for furnishing light, heat, or power are subject to the restrictions imposed on cities and villages by the Constitution and applicable law.

Section 10.5 Charter Amendment

10.5.1 Amendments may be proposed to this Charter by petition of the registered electors of the County. A petition shall include the full text of the proposed amendment, and be signed by registered electors of the County constituting not less than 10 percent of the total votes cast for all candidates for governor at the most recent gubernatorial election. The procedures for proposing amendments to this Charter shall be established by ordinance.

10.5.2 Amendments to this Charter may be proposed by resolution adopted by at least 2/3 of the Commissioners serving. A proposed amendment shall be submitted to the electors at the next general election following adoption of the resolution. If a majority of electors approve a proposed amendment, it becomes part of this Charter 45 days after certification of the election at which it was approved.

10.5.3 At the general election to be held in the year 2014, and in each 10th year thereafter, the question of a general revision of this Charter shall be submitted to the electors of the County. If a majority of the electors voting on the question decide in favor of a charter commission being elected in accordance with state law for such purpose, the provisions of state law shall govern to create a Charter Commission to prepare and present an amended or new county charter to the electors.

Section 10.6 Effect of Removal, Resignation, or Retirement

10.6.1 A person who has been removed from office pursuant to this Charter or state law, or who has resigned from office after a petition for recall has been filed with the County Clerk, or in anticipation of disciplinary action, or after a complaint or investigation has been received or undertaken by the Ethics Board, is not eligible to be elected or appointed to any County office for 2 years after such removal or resignation.

10.6.2 No full-time employee who has retired from County service shall be re-employed in the same capacity, whether by contract or otherwise, within 1 year after the person's retirement benefit commences, unless:

- (a) An applicable collective bargaining agreement specifically allows for such return;
- (b) The individual returns pursuant to a deferred retirement option program contract;
or
- (c) The Executive recommends and the Commission approves the re-employment.

Section 10.7 Public Defender

The creation of an office of Public Defender is authorized.

Section 10.8 Additional Functions or Services

The County may perform any function or service, and establish or maintain any facilities, not prohibited by law which are necessary or beneficial to the public health, safety, and general welfare of the County. However, powers granted solely by this Charter may not be exercised by the County in a local unit of government which is exercising a similar power without the consent of the local legislative body.

Section 10.9 Economic Development

The County may create and implement economic development programs, including: (1) the provision of grants for capital development, job creation, and the retention of jobs and capital; (2) the granting of tax abatements; (3) the provision of other incentives for private development; and (4) the exercise of any other power provided by law. The County Executive shall administer economic development programs, in coordination with the Director of Planning and Economic Development, pursuant to an ordinance adopted by the Commission or as provided by law.

Section 10.10 Oath of Office

The Countywide Elected Officials and Commissioners shall take and subscribe to the oath as provided in Section 1 of Article 11 of the Constitution before entering upon the duties of office.

Section 10.11 Compensation

10.11.1 The Commission shall establish the compensation of Countywide Elected Officials and Commissioners by ordinance. An increase in compensation for a Countywide Elected Official or Commissioner is not effective until the commencement of a new term and the ordinance shall be adopted before the next candidate filing deadline for the office.

10.11.2 The Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation for Countywide Elected Officials or Commissioners that would become effective without adoption by the Commission.

Section 10.12 Removal from Office

In addition to other removal processes provided by law, a Public Servant or contracted employee of the County not subject to a collective bargaining agreement or civil service may be removed from office or employment by the following process:

(a) The Ethics Board has the authority to recommend removal for criminal or corrupt conduct arising out of or occurring in the course of the conduct of the Public Servant. If the Ethics Board finds by a preponderance of the evidence that a Public Servant or contracted employee of the County has committed criminal or corrupt conduct arising out of or related to the conduct of the person's office or position, the Ethics Board shall refer the matter to the Commission, or other appropriate official or agency, for removal from office or employment. A Majority of the Ethics Board shall be necessary to adopt a recommendation for removal.

(b) Every recommendation for removal that is received from the Ethics Board shall be deliberated and decided by the Commission. The Commissioners shall truly and impartially try and determine the recommendation for removal according to the evidence. A resolution for removal from office or employment shall be approved by a roll call vote of 2/3 of the Commissioners serving.

(c) The Commission shall provide by ordinance for the process that will govern consideration of recommendations for removal made by the Ethics Board in accordance with this section. The standard for removal shall be, at a minimum, a preponderance of the evidence. Such process shall be modeled, to the extent practical, after the impeachment process set forth by law for removal of civil officers. The ordinance may allow for the adoption of rules and regulations to be followed by the Commission when conducting a hearing on a recommendation for removal.

Section 10.13 Veterans' Affairs

The Department of Veterans' Affairs existing at the time this Charter becomes effective shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of available millage funding for veterans' affairs.

Section 10.14 Community Mental Health

The Community Mental Health Agency existing at the time this Charter becomes effective, including its administration of substance abuse services, shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of state and federal funding for community mental health.

ARTICLE XI

TRANSITIONAL PROVISIONS

Section 11.1 Ordinances Continued

Ordinances, resolutions, rules, and regulations in force when this Charter takes effect shall remain effective unless changed by this Charter or an ordinance or resolution adopted under this Charter.

Section 11.2 Laws Continued

The general statutes and local acts of this State regarding counties and Countywide Elected Officials and Commissioners shall continue in effect except to the extent that this Charter provides otherwise.

Section 11.3 Succession of County Rights

The County, as created and structured under this Charter, succeeds to and is vested with the property, real and personal, money, rights, credits, and effects, and the records, files, books, and papers belonging to the County as it formerly existed. Neither the rights nor the liabilities existing when it becomes a Home Rule County, nor a suit or prosecution of any kind commenced before, and continuing at the time it becomes a Home Rule County is, in any manner, affected by the change, but is to continue, stand, or progress as if the change had not been made. The debts and liabilities of the County, the authorized tax rates approved by the voters, and taxes and assessments levied and uncollected at the time of the change remain effective until they expire, are discharged, or collected the same as if the change to home rule had not been made.

Section 11.4 Continuity of Government

Except as provided in this Charter, all existing County offices, boards, commissions, and departments existing on the date this Charter becomes effective shall continue and perform their duties unless reorganized or discontinued by an Organization Plan. Committees of the Commission established before the effective date of this Charter shall cease to exist but new committees may be created by the Commission.

Section 11.5 Road Commission of Macomb County

11.5.1 Subject to subsection 11.5.2, the Road Commission of Macomb County, consisting of 3 members, 1 of whom shall be a resident of a township within the County, is created pursuant to this Charter as required by law. The Road Commission of Macomb County existing prior to the effective date of this Charter shall continue and becomes the home rule Road Commission of Macomb County created by this section unless reorganized as permitted or required by law. All applicable requirements of the Michigan Constitution and state law shall continue to govern the Road Commission of Macomb County. This Charter shall not be construed in derogation of the powers and duties of the Road Commission of Macomb County in the exercise of its statutory duties.

11.5.2 If the voters of the County, pursuant to law, approve the reorganization of the board of county road commissioners, the Road Commission of Macomb County existing prior to the effective date of this Charter shall cease to exist and all duties and functions of the Road Commission of Macomb County shall be assumed by a Department of Roads, which shall be subject to an Organization Plan with its core functions remaining intact.

Section 11.6 Continuation of Previously Approved Tax Authorizations

All tax authorizations in effect at the effective date of this Charter shall remain in effect at the levels and for the years so authorized. Authorized taxes as approved by the electorate shall not be increased or decreased by the enactment of this Charter.

Section 11.7 Salaries and Benefits on Effective Date of Charter

11.7.1 The initial compensation for the first Executive who takes office when this Charter becomes effective shall be 8 times the minimum salary authorized for the lowest paid full-time County Employee on the date the Charter becomes effective. The Commission shall determine the compensation of the initial Executive for the remainder of the term of office by ordinance within 60 days of the effective date of this Charter.

11.7.2 The initial benefits for the first Executive who takes office when this Charter becomes effective shall be the same as those provided to the other Countywide Elected Officials.

11.7.3 The salaries and benefits for the first Countywide Elected Officials provided for in Article VI who are already serving when this Charter becomes effective shall be continued until modified as permitted by this Charter or by law.

11.7.4 The Organization Plan shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the Organization Plan. The compensation for all Appointees and Employees of the County at the effective date of this Charter shall be continued until modified as permitted by this Charter or law.

Section 11.8 Initial Organization

The Executive shall have up to 180 days to submit to the Commission the first Organization Plan required by this Charter.

Section 11.9 Transitional Apportionment

11.9.1 The existing County Apportionment Commission shall provide the apportionment plan as provided by law for the initial election of Commissioners under this Charter in the 2010 primary and general elections.

11.9.2 This section is effective upon adoption of this Charter.

Section 11.10 Effective Date

This Charter takes effect on January 1, 2011.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1 Public Meetings

Meetings of the Commission and all other County boards, commissions, and committees shall be public as provided by law.

Section 12.2 Freedom of Information

County records are public to the extent provided by law.

Section 12.3 Severability

If any provision of this Charter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Charter.

TAB 5

**BOARD OF COMMISSIONERS
MACOMB COUNTY, MICHIGAN**

**ENROLLED ORDINANCE
No: 2017-04**

FY 2018 COMPREHENSIVE GENERAL APPROPRIATIONS ORDINANCE

INTRODUCED BY COMMISSIONER LEONETTI, SUPPORTED BY COMMISSIONER KLINEFELT:

WHEREAS, section 8.6 of the Home Rule Charter of the County of Macomb (the "Charter") requires the Macomb County Executive (the "Executive") to prepare, recommend, and administer a comprehensive balanced budget; and

WHEREAS, pursuant to section 8.6 of the Charter, the Executive, by a letter dated August 18, 2017, submitted a recommended comprehensive balanced budget (the "Recommended Budget") to the Board of Commissioners (the "Commission"); and

WHEREAS, at 21 public meetings, the Commission received 38 presentations from county departments and agencies, examining the goals, benchmarks and performance metrics of each, and reviewing of each, and reviewing follow-up information and details; and

WHEREAS, the County is awaiting the results of a compensation and classification study and the Commission maintains that its results should be considered before any new positions are filled or reclassification of current positions or new positions or personnel occurs; and

WHEREAS, the Charter requires the Commission to adopt a balanced line item budget prior to the beginning of the fiscal year; and

WHEREAS, the Executive and Commission agree that the FY 2018 appropriations ordinance should include the funds with September 30 and December 31, 2018, fiscal year ends; and

WHEREAS, the estimated total revenues by source and expenditures by fund being adopted herein are as follows (the "FY 2018 Budgeted Revenues"):

<u>Revenues</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Property Taxes	\$ 119,965,426	\$ 1,871,913	\$ 121,837,339
Licenses & Permits	1,473,044	967,860	2,440,904
Intergovernmental	36,053,702	176,468,420	212,522,122
Charges for Services	34,556,696	227,394,189	261,950,885
Investment Income	300,000	261,217	561,217
Fines & Forfeitures	487,750	245,000	732,750
Reimbursements	8,534,421	19,729,605	28,264,026
Indirect Cost Allocation	15,245,889	66,150	15,312,039
Other Revenue	193,300	1,144,070	1,337,370
Transfers In	8,063,000	40,988,137	49,051,137
Fund Balance Utilization	(3,613,237)	27,997,432	24,384,195
Total Revenues	<u>\$ 221,259,991</u>	<u>\$ 497,133,993</u>	<u>\$ 718,393,984</u>

WHEREAS, the estimated expenditures by fund are as follows (the "FY 2018 Budgeted Expenditures by Fund"):

<u>Expenditures</u>	<u>Total</u>
General Fund	\$ 221,259,991
Circuit Court Programs	308,789
Child Care Fund	21,673,475
Community Corrections-Dec Year End	163,213
Community Corrections-Sep Year End	1,724,684
Community Action-Dec Year End	8,917,613
Community Action-Sep Year End	32,843,995
Department of Human Services	200,000
Friend of the Court	10,760,519
Health Grants-Dec Year End	85,948
Health Grants-Sep Year End	7,113,028
Homeland Security Grants	4,308,011
Michigan Works!	4,494,705
MSUE Grants-Dec Year End	36,150
MSUE Grants-Sep Year End	22,630
Planning Grant Fund	203,500
Prosecuting Attorney Grants-Sep Year End	2,338,279
Register of Deeds Remonumentation Fund	223,926
Register of Deeds Technology Fund	1,270,124
Concealed Pistol License Fund	141,660
Roads	137,972,966
Sheriff Grants-Dec Year End	362,500
Sheriff Grants-Sep Year End	2,226,144
Veterans' Affairs	1,324,824
Community Mental Health	184,126,792
Martha T. Berry Medical Care Facility	26,129,150
Freedom Hill Park	534,000
Substance Abuse	18,581,747
Debt Service Fund	29,045,621
	<u>\$ 718,393,984</u>

WHEREAS, the estimated expenditures by budget center in the General Fund being adopted herein are as follows (the "FY 2018 Budgeted Expenditures by General Fund Budget Center"):

Legislative

Board of Commissioners	\$ 1,732,622
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Judicial

Circuit Court	12,445,065
District Court - Romeo	970,037
District Court - New Baltimore	1,267,169
District Court - 3rd Class	20,000
Family Counseling	71,319
Jury Commission	183,475
Juvenile Court	5,266,930
Law Library	40,950
Probate Court	3,200,698
Probation - Circuit Court	118,137
Probation - District Court	499,663
Prosecuting Attorney	<u>10,281,441</u>
	<u>34,364,884</u>

General Government

Building Authority	500
Clerk	4,907,469
Corporation Counsel	1,080,157
County Executive	1,568,835
Equalization	897,690
Elections	29,763
Ethics Board	14,600
Facilities & Operations	15,579,936
Finance	2,194,321
Human Resources	2,334,949
Information Technology	8,213,414
MSU Extension	963,980
Planning & Economic Development	3,387,813
Purchasing	1,354,054
Register of Deeds	1,864,442
Treasurer	2,279,121
Non Departmental Appropriations	<u>(3,117,454)</u>
	<u>43,553,590</u>

Public Safety

Civil Service Commission	60,925
Emergency Management	1,223,655
Sheriff	<u>69,879,548</u>
	<u>71,164,128</u>
Public Works	
Public Works Commissioner	6,511,090
Health & Welfare	
Animal Shelter	2,315,235
Health and Community Services	306,038
Health Department	20,805,086
Resident County Hospitalization	<u>72,472</u>
	<u>23,498,831</u>
Capital Outlay	1,019,600
Transfers Out	<u>39,415,246</u>
Total Expenditures	<u><u>\$ 221,259,991</u></u>

THE PEOPLE OF THE CHARTER COUNTY OF MACOMB ORDAIN:

Section 1. Short Title. This ordinance shall be known as the “FY 2018 General Appropriations Ordinance.”

Section 2. Definitions. The following definitions shall apply to this ordinance.

- A. “Charter” means the Home Rule Charter of Macomb County, Michigan, which took effect on January 1, 2011.
- B. “Adopted Budget” means the Fiscal Year 2018 official budget as amended by this ordinance at the front of which this edited copy of this ordinance is included.
- C. Other words used in this ordinance shall have the meanings provided in the Charter.

Section 3. Applicability. This ordinance and budget adopted by it constitutes the County’s balanced line item budget and appropriations ordinance for the General Fund, Special Revenue Funds, the Debt Service Fund and certain Enterprise Funds for the fiscal years ending September 30, 2018, and December 31, 2018, as required by section 8.7 of the Charter and by the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 *et seq.* No amendments or changes to the FY 2017 general appropriations ordinance or budget are approved or enacted by this ordinance.

Section 4. Budget Adoption. This is the budget for funds ending September 30, 2018, and December 31, 2018, that includes (i) the FY 2018 Budgeted Revenues, (ii) the FY 2018 Budgeted Expenditures by Fund, (iii) the FY 2018 Budgeted Expenditures by General Fund Budget Center, and (iv) the Recommended Budget with the following changes and others provided in this ordinance.

A. This General Appropriations Ordinance is inserted in the document at the beginning of the Adopted Budget as a substitute for the proposed general appropriations ordinance in the budget proposed by the Executive.

B. Funds may only be spent in compliance with County policies, including any policies in effect as of the date of this ordinance and any policies adopted by the Commission after the date of this ordinance. No funds are to be expended or used for any activities, goods, services or contracts that violate such policies or that are procured in ways that violate such policies.

C. The following changes made by the Commission in amounts for specific line items are included as part of the FY 2018 Budget.

ITEM REF.	PAGE NO.	DEPARTMENT	FUND	EXPENDITURE / [REVENUE] CATEGORY	LINE ITEM	EXECUTIVE RECOMMENDED	COMMISSION APPROVED	DIFFERENCE
A	C-23	215 – COUNTY CLERK	101 – GENERAL FUND	EXPENDITURE	SUPPLIES & SERVICES	\$297,800	\$267,800	(\$30,000)
B	C-19	101 – BOARD OF COMMISSIONERS	101 – GENERAL FUND	EXPENDITURE	CONTRACT SERVICES	\$180,400	\$210,400	\$30,000
C	C-68	932 – NON-DEPARTMENTAL	101 – GENERAL FUND	REVENUE	OTHER REVENUE	\$0	\$73,500	(\$73,500)
D	C-19	101 – BOARD OF COMMISSIONERS	101 – GENERAL FUND	EXPENDITURE	CONTRACT SERVICES	\$180,400	\$203,850	(\$6,550)
E	C-19	101 – BOARD OF COMMISSIONERS	101 – GENERAL FUND	EXPENDITURE	CONFERENCES & TRAINING	\$13,450	\$20,000	\$6,550
F	C-69	930 – OPERATING TRANSFERS	101 – GENERAL FUND	EXPENDITURE	TRANSFERS OUT – CAPITAL IMPROVEMENT FUND	\$7,000,000	\$0	(\$7,000,000)

D. The following changes made by the Commission to correct errata in the Recommended Budget proposed by the Executive shall be amended in the adopted budget. However, this chart does not need to be included in the Adopted Budget.

E. All funds appropriated by this ordinance and all County Agencies and activities funded in whole or in part by funds appropriated by this ordinance shall comply with the following:

1. No County funds shall be expended for acquiring or using any goods or services or engaging in any activities that violate Ordinance No. 2014-10 (“County Seal Use Ordinance”).
2. No County funds shall be expended to obtain goods or services from, to pay for goods or services provided by, or to in any way compensate or support any entity that is an entity recognized or qualified as an entity described by subsection 501(c)(4) or section 527 of the United States Internal Revenue Code, unless a contract with that entity is first approved by the Commission.
3. No County funds may be expended on any additional placement of a current County elected official’s name or likeness on any vehicle, building, billboard, County signage, or County promotional materials. Funds may be expended to place a County elected official’s name on directional signage or on signage identifying the office space(s) regularly occupied by a County elected official or to identify a County elected official’s seat or place at a meeting. This provision shall not prevent the use of funds other than County funds for such purposes.

F. No reclassifications or staff positions in any department identified in the recommended budget are authorized until after the report on compensation and classification study being conducted by Segal Water Consulting, which is anticipated soon after January 1, 2018, has been addressed by Human Resources

and Labor Relations Department with respect to the staff position to be reclassified and the Commission has acted on any budget amendment needed to accommodate that reclassification.

G. Unless the terms and conditions of the grant otherwise specifically require, any staff position funded, in whole or in part, by state or federal grants shall be eliminated at the expiration or termination of the grant.

H. If funding of the Community Mental Health Fund from other governmental units is less than projected, budget amendments to reduce expenditures will be required. Requests for budget amendments shall be made as soon as the Community Mental Health Department is notified of funding decisions by the other governmental units. The Commission is not appropriating any additional County funds to replace any budget shortfalls resulting from payments from other governmental units that are less than what is budgeted.

Section 5. Expenditures Authorized, Not Mandated. The appropriations within this ordinance and budget proposed by the Executive as modified by this ordinance, including all appendices, are the maximum authorized expenditures, but are not a mandate to spend.

Section 6. Tax Levy. The General Operating Millage Rate to be levied by the County on July 1, 2018, to support the FY 2018 budget shall be 4.5242 mills, the voted Veterans Millage to be levied by the County on December 1, 2017, to support the FY 2018 budget shall be 0.03682 mill, and the Drain Debt Millage to be levied by the County on December 1, 2017, to support the FY 2018 budget shall be 0.0050 mill.

Section 7. Cigarette and Liquor Taxes.

A. 12/17th of the cigarette tax distributions received from the State of Michigan pursuant to 1987 PA 264, as amended, MCL 141.471 *et seq.*, shall be used by the Health Department to fund existing or new health related programs as provided in that statute and the remaining 5/17th shall be used by the Sheriff Department for Jail Operations.

B. One half (50%) of the liquor tax distributions received from the State of Michigan will be designated for use in substance abuse programs in accordance with 1985 PA 106, as amended, MCL 207.621 *et seq.*

Section 8. Grant and Donation Carryovers. Unexpended balances of grants and donations that do not require a General Fund match shall carry over to successive fiscal years until the purpose of the program is completed or otherwise terminated.

Section 9. Fund Transfers. The County Executive, Countywide Elected Officials, Departments and Agencies shall have authority to transfer funds as follows (i) from or to any line item within each of the budgetary center in an amount up to \$35,000 or 5.0% of the budget in that budgetary center known as a department number, whichever is less, and (ii) to or from any line item for internal service costs between the budgetary centers known as a department number. Multiple related expenditures shall be aggregated and subject to the limitation of \$35,000 or 5.0%, whichever is less for the budget year.

A. The amounts and brief descriptions of any line item transfers shall be posted on the County's website not less frequently than monthly for public access and inspection and, in addition, written information shall be provided to the Commission upon request of the Commission.

B. The amounts and brief descriptions of any line item transfers shall be posted on the Board/Sync system within 15 days after they are made.

Section 10. Additional Authorization May Be Required.

A. The Department of Roads budget includes details provided on pages D-40, D-41 and D-42. No capital expenditures or contracts will be approved that exceed the details so included without an explanation reasonably acceptable to the Commission at the time of approval of the capital expenditure or contract.

B. No funds are appropriated to the Capital Improvement Fund for any capital improvements or

acquisitions beyond the carryover fund balance from FY 2017. The transfer of \$7,000,000 from the General Fund to the Capital Improvement Funds in the Recommended Budget is not made by this ordinance so the \$7,000,000 transfer identified on page C-69 of the Recommended Budget is changed to \$0 in this Adopted Budget.

1. Each capital improvement project exceeding a total cost of \$35,000.00 requires approval by the Commission of an amendment to the budget.

2. No requests for proposals or requests for qualifications shall be made until an amendment to the Adopted Budget is first approved by the Commission for a capital improvement or acquisition project. An amendment to the Adopted Budget will be in addition to any approval required for contracts and purchases. An amendment to the Adopted Budget will be considered by the Commission only when detailed capital project budget is submitted to the Commission by the Board Sync system that includes:

a. A detailed description of the proposed capital project included what is to be acquired, constructed, installed, improved, renovated, or refurbished.

b. Details about how the items, buildings, or improvements will be used.

c. A detailed project schedule for design, permitting, bidding, construction, and restoration.

d. Sources and uses of funds.

e. Whether it involves any sole source or other limitations on contractors, vendors or suppliers.

f. Any prior expenditures for the project.

g. Any details about design professionals, contractors, subcontractors or others already working on or identified for working on the proposed project and the contracts or other arrangements pursuant to which they were engaged.

h. Details about any grant, loan or other funding restrictions.

i. Other information requested by the Commission.

3. No borrowing is approved for FY 2018 by this ordinance. Additional commission action for any borrowing is required.

C. Budget amendments shall be required when the award amount of any federal, state or private grant fund increases or decreases by \$35,000 or more. Such budget amendments shall include details about the amount of the grant, the amounts and sources of any required local matching funds and a brief synopsis of any restrictions on or requirements for their use. However, any such decreases that result in service delays, disruptions or other negative impact shall be reported to the Commission within the Quarterly Report. Budget amendments necessitated by changes in grant award amounts related to food and immunization programs are exempt from this clause and the Executive shall have the authority to make such amendments as needed.

D. This ordinance does not authorize any employment severance or employment separation payments. Routine payments made on employment separation for accrued and due annual leave, sick leave, longevity payments, or cost of living allowances may be made only as required by applicable collective bargaining agreements or personnel policies. No funds without prior Commission approval may be used to pay any amounts pursuant to any contract with (i) a person who is currently, or within 1 year of the date of the contract, was a Public Servant of the County; or (ii) an entity in which a person who is currently a Public Servant, or who was a Public Servant within 1 year of the date of the contract, is a partner, officer, director, member, principal, or owner of 10% or more of the entity or its stock. Additionally, no funds may be used to pay any amounts pursuant to any contract if the Macomb County Ethics Board finds that the substance

or execution of said contract did not comply with the county's ordinances or policies, including but not limited to the county's Ethics Ordinance.

E. Nothing in this ordinance is or should be construed to be approval of any contracts or any appointments requiring Commission approval. All contracts and appointments requiring Commission approval shall be submitted to the Commission in accordance with all applicable laws, rules, ordinances, and resolutions.

F. Commission approval shall be required for any lawsuit settlement.

G. The Executive shall submit to the Commission budget amendments for any lawsuit settlements resulting in payments to the County.

H. The Director of Legislative Affairs for the Board of Commissioners shall be given real-time, read-only access to the financial software program the County uses.

Section 11. Penalties and Consequences.

A. Any expenditure, purchase or contract that is made in violation of this ordinance shall be null and void.

B. Any expenditure, staff hiring, purchase or contract in violation of this ordinance is unauthorized. Any such payments made in violation of this ordinance shall be recoverable by the County.

C. Any action taken by any "Public Servant" (as defined in the Charter) in violation of this ordinance will be *ultra vires* and outside the scope of office or employment.

D. Any Public Servant taking any action in violation of this ordinance may be subject to personnel action in accordance with County policies and collective bargaining agreements.

E. It is misfeasance in office for any Public Servant to take any action in violation of this ordinance.

Section 12. Interpretation and Severability.

A. The wording of this ordinance shall control any inconsistency between it and any chart or table included within or attached to this ordinance or any inconsistent wording in the Adopted Budget.

B. If any portion of any provision or any section of this ordinance is determined to be invalid or unenforceable, it shall not affect the validity of the remaining portions of such provision or section.

Section 14. Effective Date. This ordinance shall become effective immediately upon publication of a notice of enactment.



BOB SMITH
Chair, Macomb County Commission



KAREN A. SPRANGER
Macomb County Clerk/Register of Deeds

Adopted: November 9, 2017
Published: November 15, 2017

TAB 6

**BOARD OF COMMISSIONERS
MACOMB COUNTY, MICHIGAN**

ENROLLED ORDINANCE No: 2023-04

FY 2024 COMPREHENSIVE GENERAL APPROPRIATIONS ORDINANCE

INTRODUCED BY COMMISSIONER KRAFT, SUPPORTED BY COMMISSIONER WALLACE:

WHEREAS, section 8.6 of the Home Rule Charter of the County of Macomb (the "Charter") requires the Macomb County Executive (the "Executive") to prepare, recommend, and administer a comprehensive balanced budget; and

WHEREAS, pursuant to section 8.6 of the Charter, the Executive, by a letter dated October 2, 2023, submitted a recommended comprehensive balanced budget (the "Recommended Budget") to the Board of Commissioners (the "Commission"); and

WHEREAS, the Commission engaged in significant deliberation in multiple public meetings, reviewing each County agency and publicly discussing the budget amendments; and

WHEREAS, the Charter requires the Commission to adopt a balanced line item budget prior to the beginning of the fiscal year; and

WHEREAS, the Executive and Commission agree that the FY2024 Appropriations Ordinance should include the funds with September 30 and December 31, 2024, fiscal year ends; and

WHEREAS, the estimated total revenues by source and expenditures by fund being adopted herein are as follows (the "FY 2024 Budgeted Revenues"):

Revenues	General Fund	Other Funds	Total
Property Taxes	\$ 159,872,900	\$ 2,395,000	\$ 162,267,900
Licenses & Permits	1,604,700	1,297,000	2,901,700
Intergovernmental	48,414,600	340,695,135	389,109,735
Charges for Services	33,755,800	341,394,000	375,149,800
Investment Income	8,250,000	6,146,600	14,396,600
Fines & Forfeitures	550,500	202,500	753,000
Reimbursements	9,128,300	1,553,200	10,681,500
Indirect Cost Allocation	52,651,700	-	52,651,700
Other Revenue	11,000	5,047,900	5,058,900
Transfers In	8,000,000	45,029,300	53,029,300
Fund Balance Utilization	(401,180)	34,330,850	33,929,670
Total Revenues	\$ 321,838,320	\$ 778,091,485	\$ 1,099,929,805

WHEREAS, the estimated expenditures by fund are as follows (the "FY 2024 Budgeted Expenditures by Fund"):

Expenditures	Total
General Fund	\$ 321,838,320
Circuit Court Programs	960,100
Child Care Fund	18,955,300
Community Corrections Grants	2,661,900
Community Action Grants	58,387,000
Friend of the Court	14,140,200
Health Grants	15,310,900
Emergency Management Grants	8,887,600
Michigan Works!	4,522,000
Public Defenders Fund-Sep Year End	21,747,900
MSUE Grants	76,400
Planning Grant Fund	177,000
Office of Senior Services	6,937,900
Opioid Settlement Fund	1,647,800
Prosecuting Attorney Grants	5,916,335
Prosecuting Attorney Forfeitures	42,500
Register of Deeds Remonumentation Fund	156,000
Register of Deeds Technology Fund	1,264,400
Concealed Pistol License Fund	578,700
Roads	250,131,800
Sheriff E911 Dispatch Fund	10,573,550
Sheriff Grants	2,976,300
Veterans' Affairs	2,616,800
Veterans' Grants	544,600
Community Mental Health	280,577,700
Martha T. Berry Medical Care Facility	35,613,100
Freedom Hill Park	651,700
Substance Abuse	28,267,100
Debt Service Fund	3,768,900
	\$ 1,099,929,805

WHEREAS, the estimated expenditures by budget center in the General Fund being adopted herein are as follows (the "FY 2024 Budgeted Expenditures by General Fund Budget Center"):

Legislative	
Board of Commissioners	\$ 2,581,000
Judicial	
Circuit Court	14,651,300
District Court - Romeo	2,189,300
District Court - New Baltimore	2,990,400
District Court - 3rd Class	19,000
Family Counseling	109,000
Jury Commission	444,500
Juvenile Court	8,651,300
Law Library	40,200
Probate Court	5,408,600
Probation - Circuit Court	487,400
Prosecuting Attorney	16,895,220
	51,886,220
General Government	
Building Authority	-
Clerk	8,199,700
Corporation Counsel	1,860,300
County Executive	2,738,400
Equalization	1,518,000
Elections	1,441,500
Ethics Board	3,800
Facilities & Operations	23,415,700
Finance	3,356,300
Human Resources	4,273,700
Information Technology	15,945,800
MSU Extension	1,284,400
Planning & Economic Development	5,444,200
Purchasing	2,364,500
Register of Deeds	2,560,000
Treasurer	3,772,100
Non Departmental Appropriations	(4,889,400)
	73,289,000
Public Safety	
Civil Service Commission	120,200
Emergency Management	2,422,600
Sheriff	99,182,000
	101,724,800
Public Works	
Public Works Commissioner	9,832,400
Health & Welfare	
Animal Shelter	3,014,100
Health and Community Services	1,089,200
Health Department	26,112,500
Resident County Hospitalization	59,500
	30,275,300
Capital Outlay	7,220,200
Transfers Out	45,029,400
Total Expenditures	\$ 321,838,320

WHEREAS, funds for personnel in the General Fund for the Office of the Prosecuting Attorney are appropriated for FY 2024 as follows in accordance with MCL49.31 and MCL 49.34:

Classification/Title	FTE	Salary & Wages	Benefits	Total
Prosecutor	1.0	\$ 164,100	\$ 30,500	\$ 194,600
Assistant Prosecuting Attorneys				
Chief Assistant	1.0	149,600	45,400	195,000
Chief of Operations	1.0	143,400	33,100	176,500
Chief Trial Lawyer	1.0	143,200	33,100	176,300
Chief Appellate Lawyer	1.0	143,000	33,100	176,100
Chief of Special Prosecutions	1.0	143,200	33,100	176,300
Chief of District Courts	1.0	143,200	33,100	176,300
Principal Trial Lawyer	16.0	2,084,981	517,273	2,602,254
Asst Prosecuting Attorney II	19.0	2,237,609	735,969	2,973,578
Asst Prosecuting Attorney I	19.0	1,837,100	693,800	2,530,900
Special Prosecutor (6 PT)	3.0	517,800	40,600	558,400
	63.0	7,543,090	2,210,269	9,753,359
Investigating Officers				
Chief Prosecutor Investigator	1.0	80,400	26,300	106,700
Prosecutor Investigator	3.0	219,200	92,000	311,200
	4.0	299,600	118,300	417,900
Clerks, Stenographers and Other Clerical				
Administrative Assistant	2.0	132,800	49,600	182,400
Administrative Coordinator	11.0	668,400	273,000	941,400
Office Manager	1.0	66,400	24,800	91,200
Office Assistant Senior	6.0	299,000	169,500	468,500
Office Assistant	5.0	217,000	137,200	354,200
Office Assistant (9 PT)	4.5	250,246	19,560	269,806
	29.5	1,633,846	673,660	2,307,506
Non-Statutory Positions				
Executive Assistant	1.0	107,000	38,200	145,200
Communications Director	1.0	104,000	37,700	141,700
Paralegal	1.0	61,200	24,200	85,400
	3.0	272,200	100,100	372,300
Costs Not Apportioned to Specific Positions				
Overtime/Transcripts	-	73,300	5,900	79,200
Defined Benefit Pension /Retiree Health Care	-	-	1,134,100	1,134,100
	-	73,300	1,140,000	1,213,300
Totals	100.5	\$9,986,136	\$ 4,261,102	\$14,247,238

WHEREAS, funds for personnel in the Prosecuting Attorney Year End Grant Fund are appropriated for FY 2024 as follows in accordance with MCL49.31 and MCL 49.34:

Classification/Title	FTE	Salary & Wages	Benefits	Total
Assistant Prosecuting Attorneys				
Principal Trial Lawyer	4.0	\$ 519,800	\$ 122,918	\$ 642,718
Asst Prosecuting Attorney I	1.0	97,200	36,600	133,800
Asst Prosecuting Attorney II	5.0	589,375	180,235	769,610
Principal Trial Lawyer (PT)	0.5	69,300	5,400	74,700
	10.5	1,275,675	350,800	1,780,750
Investigating Officers				
Chief Prosecutor Investigator	1.0	80,400	26,300	106,700
Prosecutor Investigator	7.0	512,260	219,708	731,968
	8.0	592,660	248,200	1,050,620
Clerks, Stenographers and Other Clerical				
Administrative Coordinator	4.0	242,900	96,500	339,400
Office Assistant Senior	8.0	398,800	225,600	624,400
Office Assistant (2 PT)	1.0	42,900	3,400	46,300
	13.0	684,600	325,500	1,010,100
Non-Statutory Positions				
Victim Witness Coordinator	1.0	66,400	32,700	99,100
Victim Witness Advocate	7.0	418,100	201,300	619,400
Victim Advocate (1 PT)	0.5	31,000	2,400	33,400
	8.5	515,500	236,400	751,900
Costs Not Apportioned to Specific Positions				
Defined Benefit Pension /Retiree Health Care	-	-	201,700	201,700
Totals	40.0	\$ 3,068,435	\$ 1,354,761	\$ 4,423,196

THE PEOPLE OF THE CHARTER COUNTY OF MACOMB ORDAIN:

Section 1. Short Title. This ordinance shall be known as the “FY 2024 General Appropriations Ordinance.”

Section 2. Definitions. The following definitions shall apply to this ordinance.

- A. “Charter” means the Home Rule Charter of Macomb County, Michigan, which took effect on January 1, 2011.
- B. “Adopted Budget” means the Fiscal Year 2024 official budget as amended by this ordinance at the front of which this edited copy of this ordinance is included.
- C. Other words used in this ordinance shall have the meanings provided in the Charter.

Section 3. Applicability. This ordinance and budget adopted by it constitutes the County’s balanced line item budget and appropriations ordinance for the General Fund, Special Revenue Funds, the Debt Service

Fund and certain Enterprise Funds for the fiscal years ending September 30, 2024, and December 31, 2024, as required by section 8.7 of the Charter and by the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 *et seq.*

Section 4. Budget Adoption. This is the budget for funds ending September 30, 2024, and December 31, 2024, that includes (i) the FY 2024 Budgeted Revenues, (ii) the FY 2024 Budgeted Expenditures by Fund, (iii) the FY 2024 Budgeted Expenditures by General Fund Budget Center, and (iv) the Recommended Budget with the following changes and others provided in this ordinance.

A. This General Appropriations Ordinance is inserted in the document at the beginning of the Adopted Budget as a substitute for the proposed general appropriations ordinance in the budget proposed by the Executive.

B. Funds may only be spent in compliance with County policies, including any policies in effect as of the date of this ordinance and any policies adopted by the Commission after the date of this ordinance. No funds are to be expended or used for any activities, goods, services or contracts that violate such policies or that are procured in ways that violate such policies.

C. The following changes made by the Commission, to the General Fund, in these amounts for specific line items are included as part of the FY 2024 Budget:

PG NO.	DEPARTMENT	FUND	CATEGORY	LINE ITEM	EXEC REC	COMM APPROVE	DIFFERENCE
C-16	615 - Animal Control	101 - General Fund	Expenditures	Repairs & Maintenance	33,500	8,500	(25,000)
C-16	615 - Animal Control	102 - General Fund	Expenditures	Vehicle Operations	93,000	118,000	25,000
C-17	101 - Board of Commissioners	101 - General Fund	Expenditures	Contract Services	222,500	250,000	27,500
C-20	220 - Civil Service Commission	101 - General Fund	Expenditures	Contract Services	15,000	25,000	10,000
C-20	220 - Civil Service Commission	101 - General Fund	Expenditures	Supplies & Services	46,500	92,800	46,300
C-22	210 - Corporation Counsel	101 - General Fund	Expenditures	Personnel	1,684,000	1,614,000	(70,000)
C-23	171 - County Executive	101 - General Fund	Expenditures	Contract Services	254,200	250,000	(4,200)
C-28	191 - Elections	101 - General Fund	Expenditures	Contract Services	183,000	150,000	(33,000)
C-28	191 - Elections	101 - General Fund	Expenditures	Supplies & Services	985,100	850,000	(135,100)
C-33	265 - Facilities & Operations	101 - General Fund	Expenditures	Contract Services	-	287,500	287,500
C-33	265 - Facilities & Operations	101 - General Fund	Expenditures	Repairs & Maintenance	6,414,400	5,774,900	(639,500)
C-33	265 - Facilities & Operations	101 - General Fund	Expenditures	Supplies & Services	462,600	814,600	352,000
C-36	222 - Finance	101 - General Fund	Expenditures	Contract Services	210,000	10,000	(200,000)
C-41	226 - Human Resources & Labor Relations	101 - General Fund	Expenditures	Contract Services	266,300	230,000	(36,300)
C-42	204 - Information Technology	101 - General Fund	Expenditures	Capital Outlay	1,314,300	1,114,300	(200,000)
C-43	166 - Jury Commission	101 - General Fund	Expenditures	Contract Services	110,000	125,000	15,000
C-43	166 - Jury Commission	101 - General Fund	Expenditures	Supplies & Services	48,200	54,200	6,000
C-48	801 - Planning & Economic Dev	101 - General Fund	Expenditures	Conferences & Training	67,500	50,000	(17,500)
C-50	229 - Prosecuting Attorney	101 - General Fund	Expenditures	Conferences & Training	53,300	10,800	(42,500)
C-50	229 - Prosecuting Attorney	101 - General Fund	Expenditures	Contract Services	36,000	78,500	42,500
C-50	229 - Prosecuting Attorney	101 - General Fund	Expenditures	Personnel	13,941,600	14,251,626	310,026
C-50	229 - Prosecuting Attorney	101 - General Fund	Expenditures	Unallocated Reduction	13,941,600	13,805,594	(136,006)
C-54	441 - Public Works	101 - General Fund	Expenditures	Personnel	8,335,700	8,430,800	95,100
C-61	253 - Treasurer's Office	101 - General Fund	Expenditures	Contract Services	25,000	-	(25,000)
C-62	930 - Operating Transfers	101 - General Fund	Operating Transfers In	Delinquent Real Property Tax Revolving Fund	8,175,100	8,000,000	(175,100)

C-62	930 - Operating Transfers	101 - General Fund	Operating Transfers Out	Community Action	6,389,300	6,133,500	(255,800)
C-62	930 - Operating Transfers	101 - General Fund	Operating Transfers Out	Macomb-St. Clair Employment & Training	177,600	-	(177,600)
C-62	930 - Operating Transfers	101 - General Fund	Operating Transfers Out	Planning & Economic Development Grants	12,600	-	(12,600)
C-64	931 - Appropriations	101 - General Fund	Appropriations - Outside Agencies/Associations	Advancing Macomb	-	50,000	50,000
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	Cybersecurity Audit	-	200,000	200,000
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	Dependent Care Audit	-	36,300	36,300
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	Environmental Prob/Clinton River Cleanup	100,000	-	(100,000)
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	Internal Controls Audit	-	200,000	200,000
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	More Than a Job Campaign	100,000	-	(100,000)
C-64	931 - Appropriations	101 - General Fund	Appropriations - Other	Professional Development Initiative	225,000	125,000	(100,000)
D-3	801 - Planning & Economic Development	344 - Community Development Block Grant	Other Financing Sources (Uses)	Transfers In - General Fund	12,600	-	(12,600)
D-6	380 - Emergency Management	350 - Emergency Management Grant Fund	Revenues	Intergovernmental	4,177,700	8,605,400	4,427,700
D-6	380 - Emergency Management	351 - Emergency Management Grant Fund	Revenues	Intergovernmental	-	282,200	282,200
D-6	380 - Emergency Management	359 - Emergency Management Grant Fund	Expenditures	Capital Outlay	193,200	291,900	98,700
D-6	380 - Emergency Management	354 - Emergency Management Grant Fund	Expenditures	Conferences & Training	5,400	43,400	38,000
D-6	380 - Emergency Management	357 - Emergency Management Grant Fund	Expenditures	Contract Services	50,800	724,000	673,200
D-6	380 - Emergency Management	358 - Emergency Management Grant Fund	Expenditures	Internal Services	-	10,900	10,900
D-6	380 - Emergency Management	352 - Emergency Management Grant Fund	Expenditures	Personnel	458,400	955,400	497,000
D-6	380 - Emergency Management	355 - Emergency Management Grant Fund	Expenditures	Repairs & Maintenance	3,600	39,600	36,000
D-6	380 - Emergency Management	353 - Emergency Management Grant Fund	Expenditures	Supplies & Services	3,461,550	6,817,600	3,356,050
D-6	380 - Emergency Management	356 - Emergency Management Grant Fund	Expenditures	Vehicle Operations	4,750	4,800	50
D-8	886 - Michigan Works	298/299 - Macomb/St. Clair Training	Other Financing Sources (Uses)	Transfers In - General Fund	177,600	-	(177,600)
D-14	229 - Prosecuting Attorney	281 - Prosecuting Attorney Forfeitures	Revenues	Fines & Forfeitures	-	25,000	25,000
D-14	229 - Prosecuting Attorney	281 - Prosecuting Attorney Forfeitures	Expenditures	Conferences & Training	-	42,500	42,500
D-30	Macomb Community Action	Community Services	Other Financing Sources (Uses)	Transfers In - General Fund	6,389,300	6,133,500	(255,800)
D-45	Prosecuting Attorney	Prosecuting Attorney Grants	Revenues	Intergovernmental	3,090,600	3,884,735	794,135
D-45	Prosecuting Attorney	Prosecuting Attorney Grants	Expenditures	Conferences & Training	22,000	52,000	30,000
D-45	Prosecuting Attorney	Prosecuting Attorney Grants	Expenditures	Contract Services	147,400	215,950	68,550
D-45	Prosecuting Attorney	Prosecuting Attorney Grants	Expenditures	Personnel	3,669,000	4,356,335	687,335
D-45	Prosecuting Attorney	Prosecuting Attorney Grants	Expenditures	Supplies & Services	155,600	163,850	8,250

D. All funds appropriated by this ordinance and all County Agencies and activities funded in whole or in part by funds appropriated by this ordinance shall comply with the following:

1. No County funds shall be obligated or expended for acquiring or using any goods or services or engaging in any activities that violate Ordinance No. 2014-10 ("County Seal Use Ordinance").
2. No County funds shall be obligated or expended to obtain goods or services from, to pay for goods or services provided by, or to in any way compensate or support any entity that is an entity recognized or qualified as an entity described by subsection 501(c)(4) or section 527 of the United States Internal Revenue Code, unless a contract with that entity is first approved by the Commission.
3. No County funds may be obligated or expended on any additional placement of a current County elected official's name or likeness on any vehicle, building, billboard, County signage, or County

promotional materials. Funds may be expended to place a County elected official's name on directional signage or on signage identifying the office space(s) regularly occupied by a County elected official or to identify a County elected official's seat or place at a meeting. This provision shall not prevent the use of funds other than County funds for such purposes.

4. No funds authorized by this ordinance may be used to create and/or fill any positions not previously included in the 2024 appropriations of the funds included herein as amended.

Section 5. Expenditures Authorized, Not Mandated. The appropriations within this ordinance and budget proposed by the Executive as modified by this ordinance, including all appendices, are the maximum authorized expenditures, but are not a mandate to spend.

Section 6. Tax Levy. The General Operating Millage Rate to be levied by the County on July 1, 2024, to support the FY 2024 budget shall not be greater than 4.3200 mills, the voted Veterans Millage to be levied by the County on December 1, 2023, to support the FY 2024 budget shall be 0.0652 mill, and the Drain Debt Millage levied by the County in December of previous years to fund the following year's drain debt service requirements will not be levied on December 1, 2023 due to the availability of restricted funds in the debt service fund.

Section 7. Cigarette and Liquor Taxes.

A. 12/17th of the cigarette tax distributions received from the State of Michigan pursuant to 1987 PA 264, as amended, MCL 141.471 *et seq.*, shall be used by the Health Department to fund existing or new health related programs as provided in that statute and the remaining 5/17th shall be used by the Sheriff Department for Jail Operations.

B. One half (50%) of the liquor tax distributions received from the State of Michigan will be designated for use in substance abuse programs in accordance with 1985 PA 106, as amended, MCL 207.621 *et seq.*

Section 8. Grant and Donation Carryovers. Unexpended balances of grants and donations that do not require a General Fund match shall carry over to successive fiscal years until the purpose of the program is completed or otherwise terminated.

Section 9. Fund Transfers. The County Executive, Countywide Elected Officials, Departments and Agencies shall have authority to transfer funds as follows (i) from or to any line item within each of the budgetary centers in an amount up to \$35,000 or 5.0% of the budget in that budgetary center known as a department number, whichever is less, and (ii) to or from any line item for internal service costs between the budgetary centers known as a department number. Multiple related expenditures shall be aggregated and subject to the limitation of \$35,000 or 5.0%, whichever is less for the budget year.

Section 10. Additional Authorization May Be Required.

A. Funding for Capital Improvements has been budgeted under the Capital Outlay line item in the "Non-Departmental" fund 932. Any transfer from that Capital Outlay line item in Department 932 into the Capital Improvement Plan fund requires prior Board approval, which must be in full compliance with Board's Capital Improvement Plan Funding Policy, except that any transfer under \$35,000 from the Capital Outlay line item in Department 932 for a specific project which total project cost is under \$35,000 may be allowed without prior Board approval; transfers under \$35,000 made under this exception shall not be divided, separated, sequenced, phased, or otherwise broken-up in a manner to avoid the requirement of prior Board approval.

B. Budget amendments shall be required when the award amount of any federal, state or private grant fund increases or decreases by \$35,000 or more. Such budget amendments shall include details about the amount of the grant, the amounts and sources of any required local matching funds and a brief synopsis of any restrictions on or requirements for their use. Budget amendments shall not be required when the award amount of any federal, state or private grant increases or decreases by less than \$35,000. However, any such decreases that result in service delays, disruptions or other negative impact shall be reported to the Commission within the Quarterly Report or any report of the County financial condition made pursuant to Charter, Section 3.7.

C. This ordinance does not authorize any employment severance or employment separation payments. Routine payments made on employment separation for accrued and due annual leave, sick leave, longevity payments, or cost of living allowances may be made only as required by applicable collective bargaining agreements or personnel policies. No funds without prior Commission approval may be used to pay any amounts pursuant to any contract with (i) a person who is currently, or within 1 year of the date of the contract, was a Public Servant of the County; or (ii) an entity in which a person who is currently a Public Servant, or who was a Public Servant within 1 year of the date of the contract, is a partner, officer, director, member, principal, or owner of 10 percent or more of the entity or its stock. Additionally, no funds may be used to pay any amounts pursuant to any contract if the Macomb County Ethics Board finds that the substance or execution of said contract did not comply with the letter or spirit of the county's ordinances or policies, including but not limited to the county's Ethics Ordinance.

D. Nothing in this ordinance is or should be construed to be approval of any contracts or any appointments requiring Commission approval. All contracts, including but not limited to intergovernmental contracts, and appointments requiring Commission approval shall be submitted to the Commission for prior approval in accordance with all applicable laws, rules, ordinances, and resolutions.

E. Commission approval shall be required for any lawsuit settlement, case evaluation award, or other dispute settlement.

F. The Executive shall submit to the Commission budget amendments for any lawsuit settlements, case evaluation awards, or other dispute settlements resulting in payments to or from the County.

G. The Director of Legislative Affairs for the Board of Commissioners shall be given real-time, read-only access to any and all financial software programs the County uses, including, but not limited to "Workday." Within 24 hours (or otherwise agreed to in writing by the Chief of Staff for the Board of Commissioners) of a written request by the Chief of Staff for the Board of Commissioners for financial information, the Executive must provide, transmit, and furnish to the Chief of Staff for the Board of Commissioners any requested financial information, which may include but is not limited to the following: vendor reports and year-to-date budget reports by department line item (containing the same line item information and format available to the Executive and respective department), in an electronic, sortable format, such as a spreadsheet.

Section 11. Penalties and Consequences.

A. Any expenditure, purchase, or contract that is made in violation of this ordinance shall be null and void.

B. Any expenditure, staff hiring, purchase, or contract in violation of this ordinance is unauthorized. Any such payments made in violation of this ordinance shall be recoverable by the County.

C. Any action taken by any "Public Servant" (as defined in the Charter) in violation of this ordinance will be ultra vires and outside the scope of office or employment.

D. Any Public Servant taking any action in violation of this ordinance may be subject to personnel action in accordance with County policies and collective bargaining agreements.

E. It is misfeasance in office for any Public Servant to take any action in violation of this ordinance.

Section 11. Interpretation and Severability.

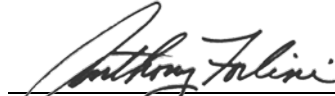
A. The wording of this ordinance shall control any inconsistency between it and any chart or table included within or attached to this ordinance or any inconsistent wording in the Adopted Budget.

B. If any portion of any provision or any section of this ordinance is determined to be invalid or unenforceable, it shall not affect the validity of the remaining portions of such provision or section.

Section 12. Effective Date. This ordinance shall become effective immediately upon publication of a notice of enactment.



DON BROWN
Chair, Board of Commissioners



ANTHONY FORLINI
Clerk/Register of Deeds

Adopted: November 27, 2023

RECEIVED by MSC 8/1/2024 4:42:00 PM

TAB 7

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

MARK A. HACKEL, in his capacity as
Macomb County Executive,

Plaintiff,

Honorable James M. Maceroni

v.

Case 2018-001252-CZ

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Defendant/Counter-Plaintiff,

v.

MARK A. HACKEL, in his capacity as
Macomb County Executive,

Counter-Defendant.

Joseph E. Viviano (P60378)
Marianne J. Grano (P82901)
KEINBAUM HARDY VIVIANO PELTON
& FORREST, P.L.C.
Attorneys for Plaintiff/Counter-Defendant
Mark A. Hackel
48 S. Main Street, Suite 2
Mount Clemens, MI 48043
(616) 726-2200
jviviano@khvpf.com
mgrano@khvpf.com

Peter H. Webster (P48783)
Alma Sobo (P81177)
DICKINSON WRIGHT PLLC
Attorneys for Defendant/Counter-Plaintiff
Macomb County Board of Commissioners
2600 West Big Beaver Road, Suite 300
Troy, MI 48084
(248) 433-7200
pwebster@dickinsonwright.com
asobo@dickinsonwright.com

AFFIDAVIT OF CRYSTAL RICHARDSON

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

I, Crystal Richardson, depose and state as follows:

1. The information in this Affidavit is based on my personal knowledge and review of materials. I am competent to testify regarding the information in this Affidavit. I declare under the penalties of perjury that this Affidavit has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

2. I am a 1998 graduate of Baker College, with an Associate’s Degree in Legal Administration. In 2007, I obtained a Bachelor of Business Administration from Baker College. In 2012, I obtained a Master in Business Administration in Leadership from Baker College.

3. I have worked for the County of Macomb for over 17 years, and I am currently the Director of Legislative Affairs to the Macomb County Board of Commissioners (“Commission”), which is a key staff member role.

4. As an employee of the County, I am required to observe the highest standard of ethical conduct, and to comply with all laws and policies of County government, including the County ethics ordinance.

5. In my position as Director of Legislative Affairs to the Commission, I am responsible for, among other things, facilitating Commission contract approval and contract amendment approval, reviewing and interpreting proposed budget items and other financial submissions from the Office of the County Executive which pertain to the proposed annual County budget and financial reports, and providing recommendations to the Commission regarding the proposed annual County budget and financial reports to aid the Commission in adopting a balanced line item operating budget and an appropriations ordinance in accordance with the requirements

of the law and the Home Rule Charter of Macomb County (“Charter”). The annual County budget serves as the foundation for the County’s financial planning and fiscal control for the upcoming year.

6. I am also responsible for preparing a variety of analyses, reports, and summaries for use by the Commission in committee work and budget reviews.

7. In addition, I serve as a resource to the Commission on regulations and policies that may affect the County’s finances, and provide recommendations to further enhance the County’s financial planning, annual budget review process, and to ensure sufficient transparency, institutional accountability, and sound fiscal management.

8. In the performance of my job functions, I do not have access to log-in credentials for real-time, read-only access to the County online integrated financial software program, known as “OneSolution” (formerly known as “IFAS”), beyond access with respect to the Commission’s Office budget. Real-time, read-only access to OneSolution is mandated by Ordinance 2017-04, titled “FY 2018 Comprehensive General Appropriations Ordinance” (“Budget Appropriations Ordinance”).

9. OneSolution is a shared County database which includes a depository of all County financial data, presented in real-time. OneSolution is used by the Office of the County Executive and all County departments. Depending on internal restrictions placed on accessibility, OneSolution enables authorized users to, among other things, search, retrieve, and sort pertinent County financial data, and offers granular level of detail, including with respect to all County expenditures, separated by each County department.

10. The lack of log-in credentials for real-time, read-only access to OneSolution, beyond access with respect to the Commission’s Office budget, impacts my ability to facilitate

Commission contract approval and contract amendment approval, and review and interpret proposed budget items and other financial submissions from the Office of the County Executive that pertain to the proposed annual County budget and financial reports, because this process requires detailed analysis of County financial data at a granular level, which is not otherwise readily available to me.

11. I submit inquiries and requests for information, including regarding proposed budget items and other financial submissions which pertain to the County budget and financial reports, to the County Finance Department.

12. The County Finance Department's responses are, at times, delayed. In addition, because County financial data is dynamic, follow-up inquiry, including as to additional details, and requests for retrieval of up-to-date information, may be necessary after a response is provided.

13. The lack of log-in credentials for real-time, read-only access to OneSolution, beyond access with respect to the Commission's Office budget, significantly impairs my ability to analyze pertinent County financial information across all County departments, because this information is not otherwise readily available to me.

14. The lack of log-in credentials for real-time, read-only access to OneSolution, beyond access with respect to the Commission's Office budget, also significantly impairs my ability to analyze pertinent County financial information across all County departments based on vendor, because this information is not otherwise readily available to me.

15. The County accounts payable check registers that are prepared by the County Finance Department and published on the County website in Excel format on a monthly basis do not alleviate the need for real-time, read-only access to OneSolution. The accounts payable check registers require the sorting and manual review and analysis of thousands of line items in order to

conduct due diligence regarding pertinent County expenditures. The accounts payable check registers are published only after County funds have already been expended, and days after the period covered by the check registers has ended.

16. The County Finance Department's quarterly reports do not alleviate the need for real-time, read-only access to OneSolution. The quarterly reports consist of budgetary comparison schedules of original and amended budgets along with year to date actual performance, and are published on the County website in portable document format (.pdf) on a quarterly basis. In addition to being published after County funds have already been expended, the quarterly reports do not offer the granular level of detail necessary to conduct due diligence regarding pertinent County expenditures.

17. Given the Commission's legislative obligation to adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of the law and the Charter, real-time, read-only access to OneSolution is necessary for the proper consideration of the proposed budget, and would aid in the performance of my job functions.

18. In my previous role at the County Clerk's Office, I obtained training on the County online integrated financial software program, then known as IFAS, and had real-time, read-only access to IFAS, including with respect to the Clerk's Office budgets. In my role, I utilized IFAS to manage the Clerk's Office budgets.

19. Real-time, read-only access to OneSolution is the most efficient and economical way to review and assess the County budget in my current role.

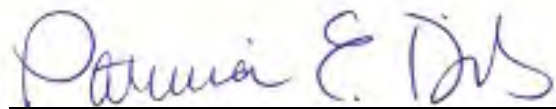
20. Real-time, read-only access to OneSolution, beyond access with respect to the Commission's Office budget, which is mandated by the Budget Appropriations Ordinance would

not present any risk to the integrity of the County financial data because such data could not be altered based on read-only privileges.



Crystal Richardson

Subscribed and sworn to before me,
this 31st day of March, 2021.



Notary Public, State of Michigan

My Commission Expires: 10-05-2024

Acting in the County of Macomb

TAB 8



BOARD OF COMMISSIONERS

1 S. Main St., 9th Floor
Mount Clemens, Michigan 48043
586.469.5125 ~ Fax: 586.469.5993
www.macombBOC.com

September 7, 2017

TO: Mark Deldin, Chief Deputy Executive; Steve Smlglel, Finance Director
FROM: Bob Smith, Board Chair
RE: BOC IFAS Access Request; OCE Email Response

Thank you for your quick response to my request. To reiterate, I asked for the Finance Department to grant the credentials necessary for one BOC staff member, Crystal Brenner, to access IFAS. This access will be utilized to look up details on line items for all funds so commissioners may exercise due diligence while examining the 2018 Recommended Budget.

The Board has received 17 of an expected 35 department budget presentations to date; we are approximately half of the way into the information-gathering phase. The Board has refined and modified its method of review, as it has in recent years, to increase scrutiny. We have staff resources to provide critical analyses which assist the Board in providing fiduciary oversight of the expenditure of county funds.

The county has realized an evolution since the adoption of the Charter; many processes have been tested, implemented, changed and refined over the course of six years. There should be no expectation that the Board – especially under leadership of a different Chair, and with five new commissioners – would utilize the same mode of receipt of requested information, particularly when a more efficient method is available.

The Board is requesting to review – for all funds – the line items that make up categories within the Proposed Budget, such as: Revenue: Licenses and Permits, Intergovernmental, Charges for Services, Reimbursements, Other Revenue; and Expenses: Supplies & Services, Conferences & Training, Repairs & Maintenance, Vehicle Operations, Contract Services, Internal Services, Capital Outlay. The Board also wants the details of each of the aforementioned line items that are available via the IFAS software system.

Commissioners do not believe it is timely or efficient for the Finance Department to produce volumes of paper records that will be out of date within a few days, especially when it is readily available through log-in to the IFAS system. The Board prefers to utilize current technology whenever possible, and respectfully asks for your further consideration; we hope to have print/read-only IFAS credentials provided as soon as possible or by September 11, 2017.

Further, it's my understanding that the 16 new positions included in the Proposed Budget are accounted for in the Forecast. If that is true, please place a notation to that end in the box along with the other assumptions. Please also include projected financial impact of new positions in the years to follow. Also, since the Compensation & Classification Study is complete, have projected accommodations been included in the Forecast? If not, please include.

CC: Board of Commissioners

MACOMB COUNTY BOARD OF COMMISSIONERS

Bob Smith – Board Chair
District 12

James Carabelli – Vice Chair
District 6

Elizabeth Lucido – Sergeant-At-Arms
District 9

Andrey Duzyj – District 1

Marvin Sauger – District 2

Veronica Klinefelt – District 3

Joe Romano – District 4

Robert Mijac – District 5

Don Brown – District 7

Phil Kraft – District 8

Robert Leonard – District 10

Kathy Tocco – District 11

Leon Drolet – District 13

TAB 9



Macomb County Executive
Mark A. Hackel

Mark F. Deldin
Chief Deputy County Executive

To: Bob Smith, Board Chair
From: Mark A. Hackel, Executive
CC: Board of Commissioners
Date: September 14, 2017
Re: IFAS Access

This is in response to your September 7, 2017 memorandum where you once again request that IFAS access be given to BOC staff so that they can delve into the details on line items for all funds. The OCE denied the first request, and since our position has not changed, we are also denying this request.

As you noted, the County has realized an evolution of budgeting practices over the past six years and we should all be proud of the improvements that have been made. Some of the improvements have come from achieving a better understanding of the appropriate roles of the parties involved. In simplest terms the Executive prepares the budget, the Commission adopts a budget, and then the Executive administers the budget.

Both Charter and statute entitle the Commission to request and receive information to aid in their budget deliberations, and the responsibility for providing that information has been placed with the Executive. We simply don't believe the budget process will be improved if the Commission staff develops that information rather than Executive staff. Either way, the Commission will receive the information they desire, and all parties (especially new Commissioners) will know what questions are being asked and the answers being given.

There were two additional questions raised in your memo. First, the 16 new positions are accounted for in the forecast and the fiscal impact has been taken into consideration. We have not included requests for new positions in future years beyond the 16 being funded this year. Second, no projected funding has been included for the Class & Comp study and no cost estimates exist at this time.

MAH/mc

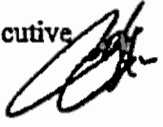
TAB 10



Macomb County Executive
Mark A. Hackel

Mark F. Deldin
Deputy County Executive

TO: Honorable Chair and Members of the Commission

FROM: Mark A. Hackel, County Executive 

DATE: September 24, 2014

RE: Statement of Position on Commission Authority
Regarding Policies, Resolutions and Ordinances

During the first two years that the Charter was in effect, the Executive Office often found the need to voice concerns about the Commission exceeding its authority when adopting policies, resolutions and ordinances. Initially those concerns were expressed through veto actions that were routinely overridden by the Commission. I subsequently began issuing veto messages that also indicated the actions would be considered as nullities if the vetoes were overridden. Even though those declarations have never been challenged, the practice of issuing vetoes still has two negative consequences. First, it makes the situation appear to be confrontational. Second, it makes it appear that the Executive is opposed to the purpose of the Commission's action when the only disagreement may be with the Board's authority to take that action.

You may recall that I attended your January organizational meeting in 2013 and pledged to work more collaboratively with the Commission. To a large extent, the working relationship between the Commission and the Executive Office has improved. But one aspect that has not improved is the Commission's tendency to take actions that are beyond its Charter authority. This continues despite frequent cautions from the Executive Office, Corporation Counsel, and our independent counsel. If anything, that practice has intensified during the past six months.

Three recent actions of the Commission illustrate these concerns. The appropriations ordinance attempts to grant powers to the Commission that are not enumerated in the Charter, it directs Executive actions, and it ignores provisions of the Charter. Second, while well-intentioned, the Human Rights policy attempts to create employment practices for the County, which under the Charter is clearly reserved for the Executive Branch. And most recently, the Commission has passed a law that intends to cite, prosecute and fine employees if they do not separate the County Seal from any other image or text by a distance no shorter than the width of the Seal itself, as measured from the outermost points of the circular banner. Certainly the design of posters and brochures is not a matter of legislative authority under the Charter.

In order to avoid the unintended appearance of confrontation over the content or purpose of the Commission's actions, I have chosen to not issue veto messages, having been advised by counsel

that an action taken without underlying authority is unenforceable whether vetoed or not. Ideally, we could come to an understanding as to the nature of the Commission's Charter authority, since these issues tend to repeat themselves. Moreover, I would like to avoid sending formal communications to the Commission every time we believe it is acting beyond its authority. That would likely create unnecessary tension between us. So as an alternative, my office has been working with Corporation Counsel and our independent counsel to develop the following Statement of Position on Commission authority as it relates to the adoption of policies, resolutions and ordinances under the County's Home Rule Charter. These seven statements summarize the many concerns we have experienced with prior Commission actions.

Statement of Position on Commission Authority

1. The Commission cannot grant powers or duties to itself through the adoption of policies, resolutions or ordinances beyond those enumerated in the Charter.
2. Historically, policy making authority has been reserved to the executive branch of government at the federal, state and local levels; the Commission has no general policy making authority beyond that specifically contained in the Charter.
3. The Commission cannot restrict, revoke or intrude into the Charter powers and duties of the Executive or Executive Branch departments through the adoption of policies, resolutions or ordinances.
4. The Commission cannot take actions that give directions to or impose requirements upon the Executive Branch beyond those specifically enumerated in the Charter.
5. The Commission cannot direct the County workforce, set work rules, or determine hours of operation for County departments, or prescribe the usage of County facilities.
6. The Commission shall act by ordinance only if required by the Charter or law, otherwise by resolution.
7. Actions of the Commission that are inconsistent with the above are not valid and will be considered as nullities by the Executive Branch.

Hopefully these statements, offered at a time when there is no specific issue before us, will clarify the position of the Executive Office and inform the Commission as to how we plan to proceed. They are offered in the spirit of fostering collaboration and understanding and not to trigger confrontation. I know the Commission is free to take whatever action it chooses, but I hope it also realizes that an action taken without underlying authority is not binding on the County and cannot be enforced.

Please let me know if you have any questions.

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RECEIVED by MCOA 11/4/2022 9:57:45 AM

TAB 11

STATE OF MICHIGAN
COURT OF APPEALS

SCIO TOWNSHIP CLERK,

Plaintiff-Appellant,

v

SCIO TOWNSHIP BOARD,

Defendant-Appellee.

UNPUBLISHED

December 21, 2023

No. 363414

Washtenaw Circuit Court

LC No. 22-000414-CZ

Before: RIORDAN, P.J., and MURRAY and M. J. KELLY, JJ.

PER CURIAM.

Plaintiff, the Scio Township Clerk,¹ appeals as of right the trial court order granting defendant, the Scio Township Board, summary disposition under MCR 2.116(C)(8) and MCR 2.116(I)(2). For the reasons stated in this opinion, we affirm.

I. BASIC FACTS

Scio Township uses BS&A software to electronically store and manage the township’s papers, records, and books. On August 17, 2021, the Board adopted resolution 2021-31—over the township clerk’s objection—which updated job descriptions for the township supervisor (an elected official) and the township administrator (a township employee). Among other duties, the township administrator’s job description included: “Assist the Supervisor in preparing and administering the annual budget **and related financial reports** under policies formulated by the Board and state law.” Later, on February 22, 2022, the Board adopted resolution 2022-05—again over the township clerk’s objection—which updated the township administrator’s job description. Among other duties, the township administrator’s job description included: (1) “**Hold ultimate authority over BS&A administration and accessibility,**” and (2) “**Hold ultimate authority over administration of all software including assignment of access.**”

¹ Jessica Flintoft has served as the Scio Township Clerk at all times relevant to this appeal.

In Spring 2022, the township administrator received permissions to manipulate the BS&A modules—the township administrator gave the deputy treasurer temporary “read/write” access to some of the BS&A modules. The township clerk promptly revoked the deputy treasurer’s “read/write” access, and in response, the township administrator revoked the clerk’s ability to change other user’s access permissions. The township administrator restored the deputy treasurer’s temporary “read/write” access, and 11 days later, the township administrator revoked the deputy treasurer’s “read/write” access.

The township clerk’s BS&A access was subsequently restored to “enterprise administrator.”² The township clerk’s enterprise-administer access was now concurrent with the township administrator’s enterprise-administer access. Nothing in either resolution took away the township clerk’s ability to access or modify BS&A-records; moreover, she has maintained concurrent read-and-write access throughout the entirety of this case. The township clerk simply argues that: (1) according to MCL 41.65, her custody of the records was exclusive; and (2) the township’s resolutions wrongfully gave someone else concurrent custody of the records, which violated the township clerk’s statutory duties. The trial court disagreed and granted summary disposition in favor of the Board.

II. SUMMARY DISPOSITION

A. STANDARD OF REVIEW

The township clerk argues that the trial court erred by granting the Board’s motion for summary disposition under MCR 2.116(C)(8). We review “de novo a trial court’s decision on a motion for summary disposition, reviewing the record in the same manner as must the trial court to determine whether the movant was entitled to judgment as a matter of law.” *Bronson Methodist Hosp v Auto-Owners Ins Co*, 295 Mich App 431, 440; 814 NW2d 670 (2012). MCR 2.116(C)(8) provides that the trial court may grant summary disposition in favor of the moving party when, “[t]he opposing party has failed to state a claim on which relief can be granted.” When considering a motion under MCR 2.116(C)(8), the “trial court must accept all factual allegations as true, deciding the motion on the pleadings alone,” and the motion “may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019).

“We review de novo questions of statutory interpretation.” *Noll v Ritzer*, 317 Mich App 506, 509; 895 NW2d 192 (2016). “A court’s primary purpose in interpreting a statute is to ascertain and effectuate legislative intent. Courts may not speculate regarding legislative intent beyond the words expressed in a statute.” *Mich Ed Ass’n v Secretary of State (On Rehearing)*, 489 Mich 194, 217; 801 NW2d 35 (2011) (quotation marks and citation omitted). “[N]othing may be read into a statute that is not within the manifest intent of the Legislature as derived from the act itself.” *Id.* (quotation marks and citation omitted). “As far as possible, effect should be given to

² An ‘Enterprise Administrator’ in the BS&A software has complete authority, including to access all modules, read all modules, edit or write over data within all modules, grant access to new users, and assign any level of access to any user.

every phrase, clause, and word in the statute.” *Sun Valley Foods Co v Ward*, 460 Mich 230, 237; 596 NW2d 119 (1999). “When the plain and ordinary meaning of statutory language is clear, judicial construction is neither necessary nor permitted.” *Pace v Edel-Harrelson*, 499 Mich 1, 7; 878 NW2d 784 (2016).

B. ANALYSIS

The township clerk argues that the Board violated MCL 41.65 by passing resolutions 2021-31 and 2022-05 “which interfered with and usurped duties that are statutorily vested exclusively with the Clerk.” Specifically, MCL 41.65 provides that the township clerk “shall have custody of all the records, books, and papers of the township, when no other provision for custody is made by law,” and that “[t]he township clerk shall prepare and maintain the journals and ledgers necessary to reflect the assets, liabilities, fund equities, revenues, and expenditures for each fund of the township.” Nothing in the plain language evinces a legislative intent to give a township clerk exclusive custody. See *Mich Ed Ass’n*, 489 Mich at 217 (recognizing that this Court may not read requirements into a statute that are derived from the language used in the statute). The township clerk’s preferred interpretation would require this Court to add the word “exclusive” in front of the word “custody” in MCL 41.65. Such a judicial rewriting of the statute, however, is improper. Accordingly, we conclude that MCL 41.65 grants the township clerk access to the township’s records, but it does not grant her exclusive custody of the township’s records, books, and papers.

The township clerk additionally relies on *McKim v Green Oak Twp Bd*, 158 Mich App 200; 404 NW2d 658 (1987). She argues that the *McKim* Court stands for the proposition that a township clerk’s custody of the township records, books, and papers is exclusive. *McKim*, involved a dispute over whether the township clerk or the township secretary should receive the township mail and bills. *Id.* at 201-202. The township clerk opposed two resolutions—“Incoming Mail Procedures” and “Incoming Bill Procedures”—which stated that the township secretary, not the township clerk, was to receive all incoming mail and bills. *Id.* at 202. The township clerk argued that the resolutions placed “an unreasonable restraint on her ability to perform her statutory duties as township clerk under MCL 41.65.” *Id.* at 203 (citation omitted). This Court agreed with the clerk, reasoning as follows:

Webster’s Seventh Collegiate Dictionary (1972) defines “custody” as “immediate charge and control exercised by a person or an authority.” *Black’s Law Dictionary* (rev 4th ed) defines a “paper” as “[any] writing or printed document, including letters, memoranda, legal or business documents, and books of account” Hence, it seems clear that MCL 41.65 bestows a township clerk with the responsibility to exercise control over all township papers, including mail and bills, unless otherwise provided for by law.

* * *

[W]e have found no other statutory provision which authorizes a person other than the clerk to have control of the *township’s* papers. It follows that the board’s resolutions entrusting control of *township* mail and bills to the general township secretary is in contravention of MCL 41.65. We note that this result is consistent

with MCL 41.69, which requires the *clerk*—not the general township secretary—to file a bond “especially for the safekeeping of the records, books, and papers of the township in the manner required by law” A clerk without custody or control of township papers can hardly fulfill her duty of safekeeping those records. Accordingly, the decision of the trial court is affirmed insofar as it vacates the board’s “Incoming Mail Procedures” and “Incoming Bill Procedures” resolutions. [*Id.* at 205 (citations omitted; alterations in original).]

Therefore, this Court concluded that the township clerk could not be prohibited from receiving the incoming mail and bills, *id.* at 206; however, this Court did not address whether other officials could have *concurrent* access to the mail and bills. Neither *McKim* nor MCL 41.65 expressly gives a township clerk authority to have exclusive access to the township’s records, books, and papers.

We conclude that a township clerk is entitled to access township records and papers; however, a township clerk is not entitled to exclusive access. In this case, resolutions 2021-31 and 2022-05 did not remove the township clerk’s ability to access or modify BS&A-records. Moreover, the township clerk maintained concurrent read-and-write access throughout the entirety of this case. The resolutions merely allow other members concurrent access to the records. We agree with the trial court’s following statement made during its ruling: “I take no position as to whether it’s wise, not wise, whether I agree or whether I disagree. It’s frankly none of my business. It’s the business of the elected officials and the public that has elected them to perform their duties.” Therefore, resolutions 2021-31 and 2022-05 are lawful, and the trial court did not err by granting the Board’s motion for summary disposition under MCR 2.116(C)(8).³

Affirmed. The Board may tax costs as the prevailing party. MCR 7.219(A).

/s/ Michael J. Riordan
/s/ Christopher M. Murray
/s/ Michael J. Kelly

³ Because we conclude that the trial court did not err by granting the Board’s motion for summary disposition, we need not address the township clerk’s argument that the trial court should have awarded her attorney fees because she is a public official who incurred attorney fees in connection with defending the performance of her legal duties.

TAB 12

The following opinion is presented on-line for informational use only and does not replace the official version. (Mich. Dept. of Attorney General Web Site - <http://www.ag.state.mi.us>)

STATE OF MICHIGAN

DANA NESSEL, ATTORNEY GENERAL

The DOG LAW:

County regulation of the keeping of
livestock and poultry on residential land.

COUNTY BOARDS OF
COMMISSIONERS:

The Dog Law of 1919, 1919 PA 339, MCL 287.261 et seq., does not authorize a county to adopt an animal control ordinance regulating the keeping of livestock and poultry.

The county's general ordinance-making power of MCL 46.11(j) does not authorize a county board of commissioners to adopt a countywide ordinance regulating the keeping of livestock and poultry on residential land.

Opinion No. 7314

July 22, 2021

The Honorable Sarah Anthony
State Representative
S-1087 House Office Building
P.O. Box 30014
Lansing, MI 48909-7514

You have asked whether a county board of commissioners has the statutory authority to regulate the keeping of livestock and poultry. In particular, you ask whether such authority exists in the Dog Law of 1919, 1919 PA 339, MCL 287.261 *et seq.* (the Dog Law), or in the county's general ordinance-making power of MCL 46.11(j).

Your request references an Ingham County Board of Commissioners' resolution, which asks whether state law authorizes a county to regulate the keeping of livestock and poultry on residential land (i.e., non-agricultural land) by way of a county animal control ordinance adopted under Section 29a of the Dog Law and MCL 46.11(j). You note the importance of such an interpretation due to the increasing popularity of keeping livestock and poultry in urban and suburban areas.

The Dog Law of 1919

As stated in the title of the Dog Law, the purposes of the law are:

[Protecting] live stock and poultry from damage by dogs; providing for the licensing of dogs; regulating the keeping of dogs, and authorizing their destruction in certain cases . . . imposing powers and duties on certain state, county, city and township officers and employees. . . .

In addition to licensing dogs and protecting livestock and poultry from damage by dogs, the Dog Law allows a county to establish an animal control agency and “provide for animal control programs, facilities, personnel and necessary expenses incurred in animal control.” MCL 287.289a. But section 29a, MCL 287.289a, expressly limits a county’s jurisdiction to cities, villages and townships that do not have their own animal control ordinances.

When interpreting a statute, such as the Dog Law, the primary rule is to discern and give effect to the intent of the Legislature. *Murphy v Mich Bell Tel Co*, 447 Mich 93, 98 (1994). That intent is evidenced by the statute’s plain language. *Wickens v Oakwood Healthcare Sys*, 465 Mich 53, 60 (2001). If the statute’s language is unambiguous, it must be presumed that the Legislature intended its clearly expressed meaning. *Id.* (citations omitted). “[F]urther construction is neither required nor permitted.” *Nastal v Henderson & Assoc Investigations, Inc*, 471 Mich 712, 720 (2005).

While section 29a authorizes counties to establish animal control agencies and hire animal control officers, there is no language in the Dog Law that authorizes a county to regulate the raising of livestock and poultry. Based on the canons of statutory construction cited above, the Legislature did not, therefore, grant such authority.

A similar question regarding the scope of a county’s authority under the Dog Law was addressed in OAG, 1977-1978, No. 5341, p 556 (July 31, 1978), which considered whether the Dog Law authorized a county to operate a spay and neuter clinic for dogs and cats. That opinion explained that, consistent with its title, the Dog Law provides for protection of the public from damage caused by dogs, for the licensing of dogs, for regulation of the keeping of dogs, and for destruction of dogs in certain cases. *Id.* at 557. And it concluded that “[n]o provision of the act specifically or impliedly authorizes a county to establish and maintain a

spay and neuter clinic and cats are not mentioned in either the title or body of the act.

Therefore, this law may not be used as a source of authority by a county to operate a spay and neuter clinic for dogs and cats.” *Id.*

Likewise, since no provision of the Dog Law specifically or impliedly authorizes a county board of commissioners to adopt an animal control ordinance to regulate the raising of livestock or poultry, the Dog Law may not be used as a source of such authority.

It is my opinion, therefore, that the Dog Law of 1919 does not authorize the county to adopt an animal control ordinance regulating the keeping of livestock or poultry.

MCL 46.11(j); powers of a county board of commissioners

As to the other part of your question, a county’s general ordinance-making authority is created by section 11(j) of 1851 PA 156, MCL 46.11(j), which gives a county board of commissioners the power to “pass ordinances that relate to county affairs and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county”

“It is elementary that a county has only such powers as have been granted to it by the Constitution or the State Legislature.” *Alan v Wayne County*, 388 Mich 210, 245 (1972); see also OAG, 2001-2002, No. 7117, p 115 (September 11, 2002) (“A county possesses only those powers delegated to it.”), citing *Wright v Bartz*, 339 Mich 55, 60 (1954). Likewise, “[a] county board of commissioners has no inherent powers.” OAG, 2001-2002, No. 7117, p 115, citing *Mason County Civil Research Council v Mason County*, 343 Mich 313, 324 (1955).

Accordingly, a county cannot adopt an ordinance unless it has been granted the authority to do so. Examples of Michigan statutes that authorize various specific county ordinances include certain zoning ordinances (MCL 125.3201) and noxious weed ordinances (MCL 247.70). Beyond instances of express statutory authorization, however, noncharter counties, such as Ingham County, possess the authority under MCL 46.11(j) to adopt only ordinances that “relate to county affairs.” OAG, 2001-2002, No. 7117, p 116. County affairs are those “relating to the county in its organic and corporate capacity and included within its

governmental or corporate powers.” *Id.* Therefore, county ordinances must relate to, and are restricted to, affairs of the county and may not interfere with the local affairs of cities, villages, or townships. *Id.* (citing OAG, 1989-1990, No. 6665, pp 401, 403 (November 15, 1990); OAG, 1969-1970, No. 4696, pp 197, 200 (November 25, 1970)).

For instance, OAG, 1989-1990, No. 6665, p 401, concluded that, although a county lacked authority to regulate or prohibit the placement of cigarette vending machines within their respective borders, it could regulate the placement of cigarette machines on county property.

Similarly, OAG, 2001-2002, No. 7096, p 66 (December 26, 2001) addressed a county’s authority to adopt a countywide noise control ordinance. In evaluating whether a county had such authority, the opinion recognized that the proposed countywide noise control ordinance described in the request, if adopted, would apply beyond the affairs of a county. *Id.*, p 67. The opinion went on to state, however, that “it is possible that a noise control ordinance could be adopted by a county board of commissioners, provided that the ordinance was limited to the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies.” *Id.* (citing OAG, 1989-1990, No. 6665, pp 401, 403). Because the proposed countywide noise control ordinance was not limited to county affairs, i.e., the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies, the county lacked authority to adopt it.

Most recently, OAG, 2001-2002, No. 7117, p 116 concluded that a county board of commissioners lacks the authority to adopt a countywide ordinance limiting the amount of well water that may be withdrawn. The Attorney General opined that a countywide well water supply ordinance, if adopted, would apply beyond the affairs of a county since the ordinance does not relate to the county in its organic and corporate capacity. *Id.* On the other hand, a county could enact a narrow well water supply ordinance provided that the ordinance is limited to the regulation of water wells on property owned or occupied by the county government or its boards, commissions, or agencies. *Id.* Additional support for a county’s limited authority to regulate its own property is found in MCL 46.11(l) and MCL 46.11(m),

which, respectively, authorize a county board to manage the county's property and manage the interests and business concerns of the county. OAG, 2001-2002, No. 7117, p 116.

Applying this framework to your question of whether a county board of commissioners has the statutory authority under MCL 46.11(j) to regulate the keeping of livestock and poultry on residential land, the text of the statute, court precedents, and Attorney General opinions indicate that such statutory authority does not exist. The keeping of livestock and poultry on residential land is not limited to "county affairs" as such activity does not relate to the county in its organic and corporate capacity and included within its governmental or corporate powers. Nor is residential land, which is the subject of your request, owned or occupied by the county government or its boards, commissions, or agencies.

It is my opinion, therefore, that MCL 46.11(j) does not authorize a county board of commissioners to adopt a countywide ordinance regulating the keeping of livestock or poultry on residential land.

Sincerely,



DANA NESSEL
Attorney General

<http://opinion/datafiles/2020s/op10393.htm>
State of Michigan, Department of Attorney General
Last Updated 07/23/2021 14:13:19