



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF CONSTRUCTION CODES  
IRVIN J. POKE  
DIRECTOR

STEVEN H. HILFINGER  
DIRECTOR

## STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission  
Docket #10-I-2

The proposed incorporation of the  
Village of Dexter as a Home Rule City  
Washtenaw County

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### SUMMARY OF PROCEEDINGS, FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### SUMMARY OF PROCEEDINGS

- A. On December 22, 2010, a petition was filed with the State Boundary Commission requesting that the Village of Dexter be incorporated as a Home Rule City. The legal description of the area proposed for incorporation is described in Attachment A.
- B. On May 24, 2011, the State Boundary Commission staff issued its comments to the commission after reviewing the petition for legal sufficiency. Staff stated "Based upon our review, it is our position that legal sufficiency has been met for this petition". The legal sufficiency review memorandum is shown as attachment B.
- C. On June 16, 2011, at an adjudicative meeting, the State Boundary Commission examined the petition for legal sufficiency at a meeting held in Okemos. At this meeting, Webster Township's attorney raised objections to the approval of legal sufficiency of the petition based upon the inclusion of (2) areas currently under an Act 425 of 1984 Intergovernmental Conditional Transfer agreement with the Township of Webster being included in the area proposed for Incorporation. His objection was based on the language in MCL 124.29 stating that "another method of annexation or transfer shall not take place for any portion of an area transferred under the contract." The Commission voted to postpone the vote on legal sufficiency until they could receive written advice from the Michigan Attorney General's office regarding whether an area under an Act 425 of 1984 Conditional Transfer can be included in an Incorporation of a new Home Rule City.
- D. On August 15, 2011, Assistant Attorney General Stephen Rideout issued a memorandum of

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division level advice regarding Act 425 agreements for the commission's consideration for this petition, which is attachment C.

- E. On August 18, 2011, at an adjudicative meeting, the State Boundary Commission examined the petition for legal sufficiency at a meeting held in Okemos. Attorney Stephen Rideout of the Michigan Attorney General's office provided a written division level memorandum for the Commission's use. He summarized this memorandum orally to the Commission by stating that "there was no impairment as far as legal sufficiency goes under MCL 124.29". Local Commissioner Prater stated that he disagreed with this interpretation and that "this issue should be resolved by the parties involved and not the Commission". The Commission was concerned that the Attorney General's advice would allow the Act 425 Agreement to be declared null and void upon the Incorporation of the Village as a City. State Commissioner Priebe moved that the petition be found as legally insufficient on the grounds that "a deal is deal and if they made a deal on some properties they should be held in place going forward" and "That if we don't find insufficient and allow you to go back and change your boundaries you are going to end up in circuit court which does not serve anyone's interest." Local Commissioner Prater supported the motion. The Commissioners present voted unanimously to declare this petition legally insufficient, pursuant to 1968 PA 191, based upon the inclusion of areas under a current Act 425 of 1984 Intergovernmental Conditional Transfer agreement with the Township of Webster.
- F. On September 15, 2011, at an adjudicative meeting, the state and local commissioners present voted to adopt the draft Summary of Proceedings, Findings of Fact and Conclusions of Law which should be signed by the Chairman and forwarded to the Department Director for review.

### FINDINGS OF FACT

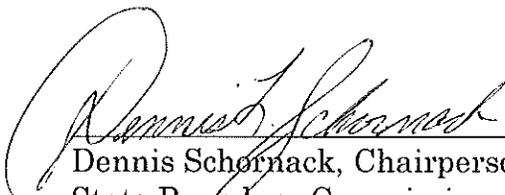
- A. This petition to request the incorporation of the Village of Dexter and parts of Webster and Scio Townships, as a Home Rule City in Washtenaw County was filed with the State Boundary Commission on December 22, 2010.
- B. The population of the area proposed for incorporation is 2,338 based on the 2000 Census. The land area of the proposed city is approximately 2.0 square miles. The density is approximately 1169 inhabitants per square mile. The population and density criteria to incorporate as a home rule city is in compliance with the Home Rule City Act (MCL 117.7).
- C. The petition contains 178 signatures. The Scio and Webster township clerks validated 160 signatures as being qualified electors and freeholders residing in Scio and Webster Townships. The Boundary Commission Act requires valid signatures of at least 5% of the population, or 100, whichever number is greater, and who are qualified electors and freeholders of the territory affected by the proposed new incorporation (MCL 123.1007(2)). Therefore, since 5% of the

proposed city's population of 2,338 is 117, the valid signature requirement is met.

- D. Two of the areas shown on sheet 2 of the 3 sheet Part 1 map of the petition are part of a PA 425 of 1984 Conditional Transfer Agreement executed between the Village of Dexter and the Township of Webster. The area shown as "Westridge of Dexter Condominium" was conditionally transferred to the Village of Dexter and filed with the Secretary of State Office of the Great Seal on June 26th, 1997. The area shown as "Parcel 1A" of the Part I map was conditionally transferred to the Village of Dexter and filed with the Office of the Great Seal on December 29th, 2006. Based upon the documentation provided by the Office of the Great Seal both agreements are still in effect.
- E. The PART I map shows the area of the proposed city to be contiguous. The PART III legal description titled "Legal Description Village of Dexter" contains one description. The PART III legal description is substantially accurate and consistent with the PART I Map as required by State Boundary Commission rule 25(1). [R123.125(1)]

#### CONCLUSIONS OF LAW

- A. The Commission concludes that this city incorporation petition is not legally sufficient on the grounds that it fails to conform to Section 9 of the Intergovernmental Conditional Transfer of Property by Contract Act [1984 PA 425, MCL 124.21-29], which states: "While a contract under this act is in effect, another method of annexation or transfer shall not take place for any portion of an area transferred under the contract."
- B. Since the Commission concludes that the provisions of Section 9 of PA 425 of 1984 preclude the petition for incorporation from being legally sufficient, the Commission recommends that the Director of the Department of Licensing and Regulatory Affairs review the Summary of Proceedings, Findings of Fact, and Conclusions of Law before taking action on the Final Order which is the document shown as attachment D.

  
Dennis Schornack, Chairperson  
State Boundary Commission

9/15/11  
Date

# ATTACHMENT A

Part III

Dept. of Energy, Labor & Economic Growth  
**FILED**

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STATE BOUNDARY COMMISSION

OHM

LEGAL DESCRIPTION  
VILLAGE OF DEXTER

PARCELS OF LAND LOCATED IN SECTIONS 31 AND 32, T.1S., R.5E., WEBSTER TOWNSHIP, AND IN SECTIONS 5, 6, 7 AND 8, T.2S., R.5E., SCIO TOWNSHIP, WASHTENAW COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NORTH ¼ CORNER OF SECTION 8, T.2S., R.5E., SCIO TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE PROCEEDING SOUTHERLY ALONG THE NORTH-SOUTH ¼ LINE OF SAID SECTION 8, A PORTION OF SAID LINE ALSO BEING THE EAST BOUNDARY LINE OF DEXTER CROSSING CONDOMINIUM, WASHTENAW COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 293, RECORDED IN LIBER 3699, PAGE 504, WASHTENAW COUNTY RECORDS, TO THE CENTER CORNER OF SAID SECTION 8; THENCE WESTERLY ALONG THE EAST-WEST ¼ LINE OF SAID SECTION 8, SAID LINE ALSO BEING THE SOUTH BOUNDARY LINE OF SAID DEXTER CROSSING CONDOMINIUM, TO THE SOUTHEAST CORNER OF DEXTER BUSINESS AND RESEARCH PARK NO. 2, RECORDED IN LIBER 30, PAGES 48-54 OF PLATS, WASHTENAW COUNTY RECORDS; THENCE PROCEEDING WESTERLY ALONG THE SAID EAST-WEST ¼ LINE OF SAID SECTION 8, SAID LINE ALSO BEING THE SOUTH BOUNDARY LINE OF SAID DEXTER BUSINESS AND RESEARCH PARK NO. 2 TO THE SOUTHWEST CORNER OF SAID DEXTER BUSINESS AND RESEARCH PARK NO. 2; THENCE PROCEEDING NORTHERLY ALONG THE WEST BOUNDARY LINE OF SAID DEXTER BUSINESS AND RESEARCH PARK NO. 2, TO THE SOUTHEAST CORNER OF THE WALKABOUT CREEK APARTMENTS (WALKABOUT CREEK APARTMENTS PHASE I DEED IS RECORDED IN LIBER 2345 OF DEEDS, PAGE 631-639, WASHTENAW COUNTY RECORDS, AND CONTAINS THE NORTHERLY PORTION OF WALKABOUT CREEK APARTMENT. WALKABOUT CREEK APARTMENTS PHASE II DEED IS RECORDED IN LIBER 3182 OF DEEDS, PAGE 380-384, WASHTENAW COUNTY RECORDS, AND CONTAINS THE SOUTHERLY PORTION OF WALKABOUT CREEK APARTMENTS, ALONG WITH THE NARROW PARCEL EXTENDING WESTERLY TO BAKER ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS); THENCE WESTERLY ALONG THE SOUTH BOUNDARY LINE OF SAID WALKABOUT CREEK APARTMENTS TO THE SOUTHWEST CORNER OF SAID WALKABOUT CREEK APARTMENTS; THENCE NORTHWESTERLY ALONG THE WEST BOUNDARY LINE OF SAID WALKABOUT CREEK APARTMENTS; THENCE WESTERLY ALONG A SOUTHERLY BOUNDARY LINE OF SAID WALKABOUT CREEK APARTMENTS TO A POINT ON THE CENTERLINE OF BAKER ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS); THENCE NORTHERLY ALONG SAID CENTERLINE OF BAKER ROAD TO A NORTHERLY BOUNDARY LINE OF SAID WALKABOUT CREEK APARTMENTS; THENCE EASTERLY ALONG SAID



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NORTHERLY BOUNDARY LINE TO THE WEST BOUNDARY LINE OF SAID WALKABOUT CREEK APARTMENTS; THENCE NORTHERLY ALONG SAID WEST BOUNDARY LINE TO THE NORTH LINE OF SECTION 7, T.2S., R.5E., SCIO TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE WESTERLY ALONG SAID NORTH LINE TO THE NORTH- $\frac{1}{4}$  CORNER OF SAID SECTION 7; THENCE SOUTHERLY ALONG THE NORTH-SOUTH  $\frac{1}{4}$  LINE OF SAID SECTION 7 TO A POINT ON THE CENTERLINE OF SHIELD ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS); THENCE WESTERLY ALONG SAID CENTERLINE A DISTANCE OF 524.21 FEET TO THE SOUTHWEST CORNER OF THE PARCEL OF LAND DESCRIBED IN LIBER 1738 OF DEEDS, PAGE 738, WASHTENAW COUNTY RECORDS, LOCATED IN THE FRACTIONAL NORTHWEST  $\frac{1}{4}$  OF SAID SECTION 7; THENCE NORTHERLY ALONG THE WEST BOUNDARY LINE OF SAID PARCEL TO THE NORTH LINE OF SAID SECTION 7; THENCE WESTERLY ALONG SAID NORTH LINE TO THE THREAD OF MILL CREEK; THENCE NORTHERLY ALONG THE THREAD OF MILL CREEK TO A POINT ON THE SOUTH LINE OF SECTION 31, T.1S., R.5E., WEBSTER TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE ALONG SAID SOUTH LINE S.87°38'15"W., 2748.21 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE N.02°55'34"W. (RECORDED AS N.02°53'00"W.), 1546.16 FEET ALONG THE WEST LINE OF SAID SECTION 31, A PORTION OF THIS LINE BEING THE WEST BOUNDARY LINE OF A PARCEL SHOWN AS "PARCEL 1A" ON A CERTIFICATE OF SURVEY COMPLETED BY WASHTENAW ENGINEERING COMPANY (JOB REFERENCE NUMBER 30479, DATED 11-20-06), TO A POINT ON THE CENTERLINE OF ISLAND LAKE ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS); THENCE ALONG SAID CENTERLINE S.62°33'50"E. (RECORDED AS S.62°31'28"E.), 284.56 FEET AND S.57°00'14"E. (RECORDED AS S.56°57'50"E.), 1000.62 FEET TO A POINT ON THE CENTERLINE OF DEXTER PINCKNEY ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS) ALSO BEING THE WEST LINE OF WESTRIDGE OF DEXTER CONDOMINIUM, WASHTENAW COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 317, RECORDED IN LIBER 3867, PAGE 225, WASHTENAW COUNTY RECORDS; THENCE ALONG THE BOUNDARY LINE OF SAID WESTRIDGE OF DEXTER CONDOMINIUM THE FOLLOWING TEN (10) COURSES: 1) N.19°17'21"W. (RECORDED AS N.16°04'40"W.), 1384.34 FEET; 2) N.70°42'39"E. (RECORDED AS N.73°55'20"E.), 614.93 FEET, 3) S.56°10'03"E. (RECORDED AS S.52°57'22"E.), 1112.62 FEET, 4) N.34°47'19"E. (RECORDED AS N.38°00'00"E.), 831.53 FEET, 5) S.83°21'41"E. (RECORDED AS S.80°09'00"E.), 803.99 FEET, 6) S.12°12'41"E. (RECORDED AS S.09°00'00"E.), 674.13 FEET, 7) S.22°05'05"W. (RECORDED AS S.25°17'46"W.), 353.45 FEET, 8) S.54°50'49"W. (RECORDED AS S.58°03'30"W.), 183.12 FEET, 9) S.71°28'39"W. (RECORDED AS S.74°41'20"W.), 557.82 FEET, 10) S.24°45'51"E. (RECORDED AS S.21°33'10"E.), 391.67 FEET TO THE THREAD OF MILL CREEK; THENCE NORTHEASTERLY ALONG THE THREAD OF MILL CREEK TO THE POINT OF INTERSECTION WITH THE THREAD OF THE HURON RIVER; THENCE EASTERLY ALONG THE THREAD OF THE HURON RIVER TO THE INTERSECTION OF THE EXTENDED WEST

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LINE OF THE PARCEL OF LAND DESCRIBED IN LIBER 1843 OF DEEDS, PAGE 869, WASHTENAW COUNTY RECORDS, LOCATED IN THE SOUTHWEST ¼ OF SECTION 32, T.1S., R.5E., WEBSTER TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE NORTHERLY ALONG SAID EXTENSION OF WEST LINE TO THE NORTHWEST CORNER OF SAID PARCEL, SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN LIBER 1503 OF DEEDS, PAGE 849, WASHTENAW COUNTY RECORDS, LOCATED IN THE SOUTHWEST ¼ OF SECTION 32, T.1S., R.5E., WEBSTER TOWNSHIP; THENCE NORTHERLY ALONG THE WEST LINE OF SAID PARCEL TO THE CENTERLINE OF JOY ROAD (AS ESTABLISHED BY WASHTENAW COUNTY ROAD COMMISSION RECORDS); THENCE EASTERLY AND SOUTHEASTERLY ALONG SAID CENTERLINE TO THE INTERSECTION WITH THE WESTERLY LINE OF THE PARCEL OF LAND DESCRIBED IN LIBER 1601 OF DEEDS, PAGE 42, WASHTENAW COUNTY RECORDS, LOCATED IN SOUTHWEST ¼ OF SECTION 32, T.1S., R.5E., WEBSTER TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE EASTERLY ALONG THE NORTH BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED IN LIBER 1601 OF DEEDS, PAGE 42, WASHTENAW COUNTY RECORDS TO THE NORTH-SOUTH ¼ LINE OF SAID SECTION 32; THENCE SOUTHERLY ALONG SAID NORTH-SOUTH ¼ LINE TO THE SOUTH ¼ CORNER OF SAID SECTION 32, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE PARCEL OF LAND DESCRIBED IN LIBER 3782 OF DEEDS, PAGE 215, WASHTENAW COUNTY RECORDS, LOCATED IN THE FRACTIONAL NORTHWEST ¼ OF SECTION 5, T.2S., R.5E., SCIO TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE SOUTHERLY ALONG THE EAST BOUNDARY LINE OF SAID PARCEL TO THE SOUTHERLY CORNER OF SAID PARCEL; THENCE CONTINUING SOUTHERLY ON THE EXTENSION OF THE EAST BOUNDARY LINE OF SAID PARCEL OF LAND DESCRIBED IN LIBER 3782 OF DEEDS, PAGE 215, WASHTENAW COUNTY RECORDS TO IT'S POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF THE NORFOLK SOUTHERN RAILROAD (AS SHOWN ON THE RIGHT OF WAY & TRACK MAP, OPERATED BY: THE MICHIGAN CENTRAL RAILROAD COMPANY (MAP #V,1-B-M,19), DATED 12/28/1917); THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID SECTION 5; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 5 TO THE SOUTH ¼ CORNER OF SAID SECTION 5, SAID POINT ALSO BEING THE NORTH ¼ CORNER OF SAID SECTION 8 AND THE POINT OF BEGINNING.

SAID PARCEL INCLUDES THE FOLLOWING PLATTED SUBDIVISIONS:

- THE MAP OF VILLAGE OF DEXTER, RECORDED IN LIBER B, PAGE 341 OF PLATS, WASHTENAW COUNTY RECORDS: BLOCK 1, LOTS 1-13; BLOCK 5, LOTS 1-8; BLOCK 6, LOTS 1-8; BLOCK 7, LOTS 1-8; BLOCK 8, LOTS 1-8; BLOCK 9, LOTS 1-8; BLOCK 13, LOTS 1-8; BLOCK 14, LOTS 1-8; BLOCK 15, LOTS 1-8; BLOCK 16, LOTS 1-3; BLOCK 19, LOTS 1-6.

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- THE PLAT OF THE VILLAGE OF DEXTER, RECORDED IN LIBER 27, PAGES 532 & 533 OF DEEDS, WASHTENAW COUNTY RECORDS: BLOCK 1, LOTS 1-13; BLOCK 2, LOTS 1-8; BLOCK 3, LOTS 6-8; BLOCK 4, LOTS 1-8; BLOCK 5, LOTS 1-8; BLOCK 6, LOTS 1-8; BLOCK 7, LOTS 1-8; BLOCK 8, LOTS 1-8; BLOCK 9, LOTS 1-8; BLOCK 10, LOTS 1-8; BLOCK 11, LOTS 4 & 6-8; BLOCK 12, LOTS 1-8; BLOCK 13, LOTS 1-8; BLOCK 14, LOTS 1-8; BLOCK 15, LOTS 1-8; BLOCK 16, LOTS 1-3; BLOCK 17, LOTS 1-13; BLOCK 18, LOT 1; BLOCK 19, LOTS 1-13; BLOCK 20, LOTS 1-25; BLOCK 21, LOTS 1-7; BLOCK 22, LOTS 1-6; BLOCK 23, LOTS 1-12; BLOCK 24, LOTS 1-8; BLOCK 25, LOTS 1-4; BLOCK 26; BLOCK 27, LOTS 1-9; BLOCK 28, LOTS 1-8; BLOCK 29, LOTS 1-8; BLOCK 30, LOTS 1-8; BURIAL GROUND.
- A MAP OF PART OF THE VILLAGE OF DEXTER, RECORDED IN LIBER F, PAGE 100 OF PLATS, WASHTENAW COUNTY RECORDS: BLOCK 18; BLOCK 19, LOTS 1-13; BLOCK 20, LOTS 1-16.
- THE PLAT OF THE ADDITION TO THE VILLAGE OF DEXTER BY THE DEXTER ESTATE; RECORDED IN LIBER 55, PAGE 477 OF DEEDS, WASHTENAW COUNTY RECORDS: BLOCK 31, LOTS 1-12; BLOCK 32, LOTS 1-12; BLOCK 33, LOTS 1-12; BLOCK 34, LOTS 1-7; BLOCK 35, LOTS 1-17; BLOCK 36, LOTS 1-23; BLOCK 37, LOTS 1-14; BLOCK 38, LOTS 1-14; BLOCK 39, LOTS 1-12; BLOCK 40, LOTS 1-12; BLOCK 41, LOTS 1-12.
- THE PLAT OF EAST SIDE OF BLOCK 18 VILLAGE OF DEXTER, RECORDED IN LIBER 60, PAGE 123 OF DEEDS, WASHTENAW COUNTY RECORDS: LOTS A, B, C & D.
- THE PLAT OF N.H. WING'S SUBDIVISION OF THE SOUTH WEST CORNER OF BLOCK NUMBER SIX OF THE VILLAGE OF DEXTER, RECORDED IN LIBER V, PAGE 726 OF PLATS, WASHTENAW COUNTY RECORDS: LOTS 1-23.
- THE PLAT OF MARY J. RAYWALT'S ADDITION TO THE VILLAGE OF DEXTER, RECORDED IN LIBER 60, PAGE 770 OF DEEDS, WASHTENAW COUNTY RECORDS: LOTS 1-18.
- THE PLAT OF THE MAP OF MARY J. RAYWALT'S 2<sup>ND</sup> ADDITION TO THE VILLAGE OF DEXTER, RECORDED IN LIBER 67, PAGES 306 & 307 OF DEEDS, WASHTENAW COUNTY RECORDS: LOTS 19-46.
- THE PLAT OF DEXTER HEIGHTS SUBDIVISION, RECORDED IN LIBER 11, PAGE 55 OF PLATS; WASHTENAW COUNTY RECORDS: LOTS 1-12.
- THE PLAT OF MEYERS' SUBDIVISION, RECORDED IN LIBER 13, PAGES 50 & 51 OF PLATS, WASHTENAW COUNTY RECORDS: LOTS 1-34.
- DEXTER CROSSING PLAT ONE, RECORDED IN LIBER 31, PAGES 16-18 OF PLATS, WASHTENAW COUNTY RECORDS: LOTS 1-34.
- DEXTER BUSINESS AND RESEARCH PARK, RECORDED IN LIBER 26, PAGES 29-36 OF PLATS, WASHTENAW COUNTY RECORDS: LOTS 1-25.
- DEXTER BUSINESS AND RESEARCH PARK NO. 2, RECORDED IN LIBER 30, PAGES 48-54 OF PLATS, WASHTENAW COUNTY RECORDS: LOTS 26-44 AND ONE PRIVATE PARK.

# **ATTACHMENT B**



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF CONSTRUCTION CODES  
IRVIN J. POKE  
DIRECTOR

STEVEN H. HILFINGER  
DIRECTOR

To: State Boundary Commissioners  
From: Kevin O'Brien, P.S. State Boundary Commission Staff  
Date: May 24, 2011  
Subject: Docket # 10-I-2 Legal Sufficiency Review  
Petition to Incorporate the Village of Dexter as a Home Rule City  
(Washtenaw County)

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The following comments are for your consideration on the legal sufficiency of this petition:

1. This petition to request the incorporation of the Village of Dexter and parts of Webster and Scio Townships, as a Home Rule City in Washtenaw County was filed with the State Boundary Commission on December 27, 2010.
2. The population of the area proposed for incorporation is 2,338 based on the 2000 Census. The land area of the proposed city is approximately 2.0 square miles. The density is approximately 1169 inhabitants per square mile. The population and density criteria to incorporate as a home rule city is in compliance with the Home Rule City Act (MCL 117.7).
3. The petition contains 178 signatures. The Scio and Webster township clerks validated 160 signatures as being qualified electors and freeholders residing in Scio and Webster Townships. The Boundary Commission Act requires valid signatures of at least 5% of the population, or 100, whichever number is greater, and who are qualified electors and freeholders of the territory affected by the proposed new incorporation (MCL 123.1007(2)). Therefore, since 5% of the proposed city's population of 2,338 is 117, the valid signature requirement is met.
4. Two of the areas shown on sheet 2 of the 3 sheet Part 1 map of the Petition are part of a PA 425 of 1984 Conditional Transfer Agreement executed between the Village of Dexter and the Township of Webster. The area shown as "Westridge of Dexter Condominium" was conditionally transferred to the Village of Dexter and filed with the Secretary of State Office of the Great Seal on June 26th, 1997. The area shown as "Parcel 1A" of the Part I map was

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conditionally transferred to the Village of Dexter and filed with the Office of the Great Seal on December 29th, 2006. Based upon the documentation provided by the Office of the Great Seal both agreements are still in effect.

5. The PART I map shows the area of the proposed city to be contiguous. The PART III legal description titled "Legal Description Village of Dexter" contains one description. The PART III legal description is substantially accurate and consistent with the PART I Map as required by State Boundary Commission rule 25(1). [R123.125(1)]
6. Based upon our review, it is our position that legal sufficiency has been met for this petition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kevin M. O'Brien".

Kevin M. O'Brien, P.S.

# **ATTACHMENT C**

DEPARTMENT OF  
ATTORNEY GENERAL

MEMORANDUM

August 15, 2011

TO: Kevin O'Brien  
Professional Surveyor  
Bureau of Construction Codes  
Department of Licensing and Regulatory Affairs

FROM: Stephen M. Rideout   
Assistant Attorney General  
Finance Division

RE: SBC Act 425 Agreement

You have requested my advice whether an incorporation petition under the State Boundary Commission Act is a transfer prohibited under MCL 124.29 of the Intergovernmental Conditional Transfer of Property by Contract Act (the "425 Act"), in regards to whether areas currently under the provisions of a 425 agreement can be included for the purposes of incorporating a village as a Home Rule City.

To fully understand the issue, a general review of the 425 Act is provided. As stated in The Conditional Land Transfer Act: Research, Reflections and Policy Recommendations,<sup>1</sup>

As the name implies, the "Conditional Land Transfer Act" permits two or more local units of government to enter into a written agreement to "conditionally transfer" property from one local unit to another. Local units are defined as cities, townships and villages.

What does it mean to "conditionally transfer" land under a PA 425 agreement? When land is conditionally transferred to another unit, for example from a township to a city, it is assumed that "for all purposes" the transferred property comes under the jurisdiction of the local unit to which the property is transferred. (PA 1984, No. 425, § 8). This means that the property becomes subject to the property tax levy of the receiving unit; the residents living in the transferred area, and non-residents working in the transferred area are subject to income tax if the receiving unit levies an income tax (Op. Atty. Gen. 1994, No. 6826); the property is afforded access to the full scope of services provided by the receiving unit; the property assessment records and voting records of residents will be transferred to the receiving unit; and the transferred land becomes subject to the planning and zoning controls of the receiving unit. In short, the transferred area comes under

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<sup>1</sup> The Conditional Land Transfer Act: Research, Reflections and Policy Recommendations, Taylor, Harvey, and Shields (2005)

the complete control and jurisdiction of the unit to which the land has been transferred.

At issue is MCL 124.29, which states, in pertinent part:

While a contract under this act is in effect, another method of annexation or transfer shall not take place for any portion of an area transferred under the contract.

In this matter, there are three 425 agreements in place involving land contiguous to the Village of Dexter (the "Village") conditionally transferring these specific parcels from Webster Township (the "Township") to the Village. An incorporation petition has been submitted to the State Boundary Commission. The petition seeks the establishment of a new city which includes the area where the Village is situated, and the area covered by these 425 agreements. The issue presented is the effect of these 425 agreements in relation to this city incorporation petition.

In the event that the area becomes incorporated as a city under the Home Rule City Act, MCL 117.1 *et seq.*, at the time of the incorporation, the Village would no longer exist. Thus, it is axiomatic that the 425 agreements would be extinguished as one of the parties to the agreements (the Village) has ceased to exist, as there can't be a contract with only one party.<sup>2</sup>

Based on the above, it is my conclusion that at the time of the incorporation of a city there would not be any current 425 agreements in place, and thus there could not be a transfer that would be contrary to the requirements of MCL 124.29.

I am mindful that MCL 117.14 provides:

**117.14 Incorporation or annexation.**

Sec. 14. Whenever an incorporated village is incorporated as a city, without change of boundaries, such city shall succeed to the ownership of all the property of such village and shall assume all of its debts and liabilities.

However, nothing in Act 425 provides for a city to continue an Act 425 agreement in the place of a village which is no longer in existence (due to the incorporation of a new city in place of the village). In addition, the standard language found in city charters that the new city intends to acquire the contractual rights of the village and assume its contractual liabilities would appear to

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<sup>2</sup> It is noted that in the 425 Agreement recorded in Liber 03451, Page 0344 of the Washtenaw County Register of Deeds that the Village and Township discussed the possibility that the Village might seek incorporation as a city in the future and provided some language to that effect in the Agreement. However, once the Village is dissolved at the time of the incorporation of the property as a city, the Agreement would become void as only one party to the Agreement would still exist.

Kevin O'Brien  
Page 3  
August 15, 2011

have no application in this situation in the absence of authorization by Act 425 for substitution of contacting parties in an Act 425 agreement.

This memorandum constitutes advice at the Division level and is not the formal opinion of the Attorney General.

SMR/sh

c: Molly Jason  
George Elworth

2011-0014821-ASBC Act 425 Agreement/O'Brien Memo

# **ATTACHMENT D**



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF CONSTRUCTION CODES  
IRVIN J. POKE  
DIRECTOR

STEVEN H. HILFINGER  
DIRECTOR

In the matter of:

State Boundary Commission  
Docket # 10-I-2

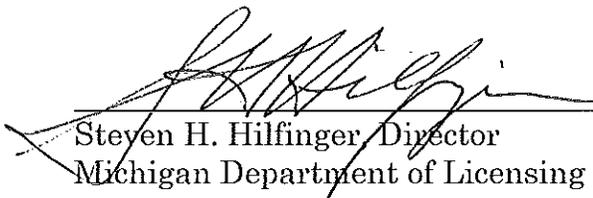
The proposed Incorporation of the Village of  
Dexter as a Home Rule City  
Washtenaw County.

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**ORDER**

IT IS ORDERED THAT the petition for the proposed incorporation of the village of Dexter as a Home Rule City in Washtenaw County, as described in Attachment A, is legally sufficient.

IT IS FURTHER ORDERED THAT the State Boundary Commission shall conduct a public hearing in the area proposed to be incorporated to hear from interested parties regarding the reasonableness of the proposed incorporation based on the criteria established in the State Boundary Commission Act [1968 PA 191 MCL 123.1001 et. seq.] as required by MCL 123.1008.

  
\_\_\_\_\_  
Steven H. Hilfinger, Director  
Michigan Department of Licensing and Regulatory Affairs

10-24-11  
Date

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