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October 4, 2016

To: The State Boundary Commission

From: Bauckham, Sparks, Thall, Seeber & Kaufman P.C., Township Attorneys for Lockport Township

Re: October 12, 2016 Hearing Regarding the Legal Sufficiency of City of Three River's Petition to Annex Certain Property within Lockport Township

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To whom it may concern,

Our firm functions as the Township Attorneys for Lockport Township (hereinafter the "Township"). This letter is in support of the Township's opposition of annexing certain property from Township and into the City of Three Rivers (hereinafter the "City") and to supplement the rebuttal report regarding the same submitted by Douglas Kuhlman, the Lockport Township Zoning Administrator. It is my understanding that the State Boundary Commission (hereinafter the "SBC") is holding a meeting on October 12, 2016 at 1:30 p.m. to determine the legal sufficiency of the City's petition to annex certain property into the same.

After reviewing the City's petition, the Township feels it is important to respond to the legal sufficiency of the same. The SBC provided the City with instructions for submitting a petition to annex.¹ The Township submits that the City's "Statement of Facts" contained in Part V – "Reason for the Request" is so lacking that its petition should be rejected or, in the alternative, the SBC should hold a hearing to determine the facts of this case before making a decision regarding whether the petition is legally sufficient. Douglas Kuhlman, the Lockport Township Zoning Administrator, has submitted a report detailing the factual inaccuracies contained with the City's Statement of Facts.

Of particular importance, it has been well documented in proceedings before the St. Joseph County Circuit Court and the Michigan Court of Appeals that the Township is not opposed to the construction of Youth Complex within Township boundaries. Of course the Township is willing to support projects for the betterment of the community;

¹ See attached Exhibit 1, Annexation Petition Instructions.

however, the Township is opposed to a Youth Complex being built where the City demands it must be: on approximately 80 acres of prime real estate (hereinafter the “subject property”) located in the Township’s residential zoning district. The City not once mentions this in its petition. Instead, the City paints the Township in a negative light, claiming that it attempted to work with the Township to no avail. The City never mentions or explains why the Township is opposed to such annexation. The City refuses to acknowledge that there are other parcels within the Township and City where a Youth Complex may be built. Furthermore, the City never mentions that Township residents are largely opposed to a Youth Complex being built on the subject property.

Moreover, the City never submitted a proposed Public Act 425 Agreement or Urban Cooperation Agreement in writing to the Lockport Township Board for consideration or negotiation. The City cites a timeline of “efforts” it made to accommodate the Township even though the Township wants to keep its prime developable property within its jurisdiction. However, it cannot provide any official documentation of the same because these actions, if they did occur, took place at local restaurants or in a private homes and not in public meetings of the Township Board of City Commission. The City demands that the Township acquiesce to the location and parameters of the Youth Complex. The City never mentions that the subject property is surrounded mostly by residential homes and the proposed Youth Complex is not harmonious with the Township’s master plan or the land uses surrounding the same.

Furthermore, the City submits that “[t]he Township’s efforts to prevent the Youth Complex culminated in the Township calling for an election to attain charter township status...for the purpose of preventing further annexation.” This claim fails at two levels. First, the Township is not in the business of “preventing” the construction of a Youth Complex. The Township is opposed to the Youth Complex being built where the City demands it must be. Secondly, even if the Township voted to incorporate as a charter township it would not receive absolute protection from annexation proceedings because the Township does not satisfy all of the statutory criteria under MCL 42.34(1)(a) – (f) for annexation protection:

1. The Township has a State equalized valuation of at least \$25,000,000 (\$25 million).
2. Minimum population density of 150 persons per square mile (this does not include any incorporated villages)
3. Provides fire and police services by contract or otherwise.
4. Is governed by a comprehensive zoning ordinance of master plan.
5. Provides solid waste disposal services to township residents (by township or by contract or some other method).

In conclusion, the Township submits that City’s “Statement of Facts” in Part V of its petition to annex is incomplete and inaccurate. The Township submits that a Statement of Facts contained in a petition for hostile annexation of land should include all facts, whether favorable and unfavorable. Reasonable minds should conclude that the SBC will be better prepared to hear this matter if all relevant facts are contained with the City’s petition. The SBC would not be advised of the complete factual basis regarding this annexation proceeding without this letter and Mr. Kuhlman’s report. Because of this, the Township asks the SBC to determine that City’s petition to annex is not legally

sufficient because its "Statement of Facts" contained in Part V is incomplete and reject the same.

We intend to be present at the hearing on October 12, 2016, and can address these matters personally if the SBC wishes.

Very truly yours,

**BAUCKHAM, SPARKS, THALL,
SEEBER & KAUFMAN, P.C.**

A handwritten signature in black ink, appearing to read "Seth Koches". The signature is written in a cursive style with a large initial "S".

Seth Koches