

ROBERT CHARLES DAVIS
City of Marine City Attorney

TO: City of Marine City Commissioners
City of Marine City Manager

FROM: Robert Charles Davis, City Attorney

RE: Guy Center Property

DATE: July 20, 2021

I. PURPOSE

This memorandum addresses the potential issues associated with the marketing/sale of the property known as the "Guy Center" located at 303 S. Water Street.

The City of Marine City is currently analyzing the sale of the Guy Center. The following documents are reviewed:

- **Last Will and Testament of Bertha C. Guy dated May 1, 1972.**
- **Minutes of the City Commission Dated September 20, 1973 relating to the Guy Estate.**
- **An appraisal and notes for 109 N. Elizabeth dated July 20, 1973.**
- **An appraisal and notes for 133 N. Elizabeth dated July 20, 1973.**
- **A Warranty Deed for the Guy Center property from Detroit Edison to the City of Marine City Dated October 7, 1973 for \$46,000.00.**

II. FACTS

The facts are supported by documents. The relevant facts include those listed below. If any person has additional facts or facts contrary to those presented herein, please advise immediately so I can determine if the conclusions herein remain supported and correct.

1. There is a Last Will and Testament of Bertha C. Guy dated May 1, 1972 leaving two (2) defined parcels to the City of Marine City with conditions (Exhibit 1);

2. There is a controlling City of Marine City resolution adopted on September 20, 1973 accepting the donation with conditions (Exhibit 2);
3. There is a transfer of the two (2) parcels from the Bertha C. Guy executor to the City of Marine City dated September 28, 1973 (Exhibit 3);
4. There is an appraisal of 133 N. Elizabeth dated July 20, 1973 showing the value of \$15,000.00 (Exhibit 4);
5. There is an appraisal of 109 N. Elizabeth dated July 20, 1973 showing the value of \$22,000.00 (Exhibit 5);
6. The City records show 109 N. Elizabeth sold on April 12, 1974 for \$24,000.00;
7. The City records show 133 N. Elizabeth sold on June 4, 1974 for \$18,025.00;
8. The combined sale proceeds from the two (2) properties given to the City is \$42,025.00;
9. Detroit Edison conveyed the property known as 303 S. Water Street to the City of Marine City by deed dated October 4, 1973 for the amount of \$46,000.00 (Exhibit 6); and
10. There are approved operating regulations for the Guy Community Center dated January 20, 1975 (Exhibit 7).

III. LEGAL ANALYSIS

A. The City of Marine City's Right To Sell Real Estate.

The Marine City Charter, at Section 2.3, states that, in addition to the powers possessed by the City of Marine City under the Constitution and statutes of the State of Michigan, and those set forth throughout this charter, the City shall have power to acquire by purchase, gift, condemnation, lease, construction, or in any manner permitted by statute, private property of every type and nature for public use and the City shall have the power to maintain, develop, operate, lease and dispose of City property.

“Section 2.3. Further definition of powers.

In addition to the powers possessed by the city under the Constitution and statutes of the State of Michigan, and those set forth throughout this charter, the city shall have power with respect to and may by ordinance and other lawful acts of its officers provide for the following, subject to any specific limits placed thereon by this charter:

(a) **The acquisition by purchase, gift, condemnation, lease, construction, or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of St. Clair and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;**

(b) **The maintenance, development, operation, leasing and disposal of city property** subject to any restrictions placed thereon by statute or this charter;” (Marine City Charter at Section 2.3) (Emphasis Added)

B. The Restrictions On The Sale Of The Guy Community Center Property.

1. Last Will And Testament Of Bertha C. Guy

The Last Will and Testament of Bertha C. Guy states, in relevant part, that she willed and bequeathed certain real estate to the City of Marine City for community buildings to be known as the “Guy Community Center”. In addition, Bertha C. Guy specifically stated that there shall be a suitable plaque (“Plaque”) inscribed as follows “In Memory of Otto A. Guy and Bertha C. Guy”. Her Will further states that she grants to the City of Marine City the power to sell and convey the real estate provided that the funds are used for a community building with the Plaque.

“EIGHTH: I will, devise and bequeath the following described real estate to the City of Marine City for community buildings to be known as the “Guy Community Center”, with a suitable plaque inscribed “In Memory of Otto A. Guy and Bertha C. Guy” to be displayed. I hereby give and grant unto the City of Marine City the power to sell and convey the following described real estate, providing the funds therefrom are used for a

community building with the aforementioned suitable plaque erected therein:

PARCEL #1, Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: Lot 3, except the North 145 feet, also Lot 2, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office;

PARCEL # 2: Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: Lot 4 and the North 15 feet of Lot 3, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office.” (**Exhibit 1** -- Last Will and Testament)

2. Marine City Resolution Dated September 20, 1973

On or about September 20, 1973, the City of Marine City passed a resolution which accepted Bertha Guy’s gift of land (“Resolution”). The Michigan Court of Appeals has noted that a Resolution is defined as a formal expression of the opinion or will of an official body adopted by a vote. There is no record or evidence to suggest the Resolution was rescinded or modified.

“Resolution” is defined as a formal expression of the opinion or will of an official body, adopted by a vote. Black's Law Dictionary (5th ed). Usually, the term "resolution" refers to the adoption of a motion where the subject matter of the motion would not properly constitute a statute. Id. Once defendant's city council voted to approve the motion, it became a resolution.” (**Gorney v. City of Madison Heights**, 211 Mich. App. 265, 271; 535 NW2d 263, 266 (1995).) (Emphasis Added)

The Resolution states that the City Commission of the City of Marine City acknowledges the generous gift of the deceased and is desirous for and on behalf of the City of Marine City to accept said gift under such terms and conditions as will give effect to and implement the desires of the deceased.

“WHEREAS, the City Commission of the City of Marine City gratefully acknowledges the generous gift of the deceased and is desirous for and on behalf of the City of Marine City to accept said

gift under such terms and conditions as **will give effect to and implement the desires of the deceased in such manner as to satisfy the Executor aforesaid in the proper discharge of its duties in the premises and for the purpose of obtaining the approval of the Probate Court and the interest parties in said estate.**" (Exhibit 2 -- Resolution) (Emphasis Added)

The Resolution states that it is resolved that the City of Marine City accepts the real estate subject to all of the terms and conditions provided therein and will designate the real estate so devised and conveyed as the "Guy Community Center" and will display thereon a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy"

"NOW THEREFORE, be it resolved by the City Commission of the City of Marine City, Michigan as follows: (1) The City of Marine City accepts the real estate described in Paragraph Eighth of the Last Will and Testament of Bertha C. Guy, Deceased, subject to all the terms and conditions provided therein, and will acknowledge by receipt a proper conveyance thereof.

"(2) The City of Marine City will designate the real estate so devised and conveyed as the "Guy Community Center" and will display thereon a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy". (Exhibit 2 -- Resolution)

The Resolution states that, in the event that the City of Marine City should sell the real estate, it (the City) covenants to use the funds from the sale for a community building to be designated the "Guy Community Center" with the aforementioned Plaque.

"(3) In the event the City of Marine City exercised the power to sell and convey said real estate, as provided in Paragraph Eighth aforesaid, the City of Marine City covenants to use the funds therefrom for a community building to be designated the "Guy Community Center" with the aforementioned suitable plaque erected therein. (Exhibit 2 -- Resolution) (Emphasis Added)

The Resolution states that the City of Marine City covenants to establish, in its books and records of account, a "Guy Community Center Fund" which fund shall consist of the real property funds from the sale thereof, any other real property purchased with said funds,

the rental process of any real property purchased by said fund, and any investment earnings of said fund.¹

“(4) The City of Marine City further covenants to establish, and by this Resolution does establish, in its books and records of account, a “Guy Community Center Fund”, which fund shall consist of the real property hereinbefore described, funds from the sale thereof, any other real property purchased with said funds, the rental process of any real property purchased by said fund, and any investment earnings of said fund;” (Exhibit 2 -- Resolution) (Emphasis Added)

The Resolution states that it is the express intention of the City of Marine City that -- upon acceptance of said gift and at all times thereafter -- there shall be maintained by virtue of said gift or the proceeds a “Guy Community Center”. The Resolution states that the Guy Community Center shall be maintained except during such period caused by a sale, repurchase, construction, reconstruction or renovation.

“it is the express intention of the City of Marine City that upon acceptance of said gift and at all times thereafter there shall be maintained by virtue of said gift or the proceeds therefrom a “Guy Community Center”, except for such reasonable and necessary periods caused by sale, repurchase, construction, reconstruction, or renovation as required in the best interest of the people of the City of Marine City and in order to give continuing purpose and effect to Paragraph Eighth of the Last Will and Testament of the deceased; and further, that any expenses incurred in connection with the maintenance and administration of the fund herein created shall be charted to said fund.” (Exhibit 2 - Resolution) (Emphasis Added)

Thus, it is clear that this situation envisioned sale, repurchase, construction, reconstruction or renovation.

¹ The Michigan Court of Appeals has ruled that a covenant is a formal agreement or promise to do or not do a particular act.

“A covenant is “[a] formal agreement or promise, usually in a contract or deed, to do or not to do a particular act.” Black's Law Dictionary (9th ed).” (Grand/Sakwa Lincoln Park v. Sears, Unpublished Opinion Per Curiam of the Court of Appeals, decided [November 27, 2012] (Docket No. 308579).) (Emphasis Added)

The Resolution expressly states that, to the extent possible by law, the Resolution shall bind the City of Marine City. The Resolution was passed unanimously and has not been rescinded or modified.

“(5) To the extent possible by law this Resolution shall bind the City of Marine City, its governing body and its successors.

Yeas: Commissioners Beauchamp, Beauvais, Bettinger, Cohrs, Spaulding, LaBuhn, Arnold. Nays: None.” (Exhibit 2 -- Resolution) (Emphasis Added)

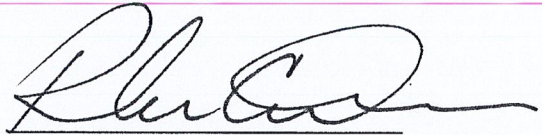
III. CONCLUSIONS

The City of Marine City resolved and covenanted that a Guy Community Center shall be maintained at all times except during those periods of time caused by a sale, repurchase, construction, reconstruction or renovation. As a result, to the extent that the City of Marine City should choose to sell the current Guy Community Center property, the funds raised from that sale will have to be used, in an appropriate amount, for the purpose of a community center and that community center shall have the relevant Plaque. This means any current sale of the property as a whole will have to be analyzed to determine how much of the proceeds are attributable to the Community Center.

Marine City was clear in its Resolution that it intended to be bound by the Resolution and the City of Marine City is bound accordingly. The law supports this type of gift and the enforcements of the conditions asserted and accepted. Based on this, I recommend the following:

1. The total price on any sale of 303 S. Water Street should be examined to determine what value is attributed to the sale of the Community Center; and

2. The proceeds value attributed to the Community Center upon the sale of 303 S. Water Street should be allocated to the buildout of the new Community Center at the new City offices.

A handwritten signature in black ink, appearing to read 'Robert Charles Davis', written over a horizontal line.

Robert Charles Davis

EXHIBIT 1

Last Will and Testament

OF

BERTHA C. GUY

BE IT REMEMBERED, That I, BERTHA C. GUY, of the City of Marine City, County of St. Clair and State of Michigan, being of sound and disposing mind and memory and of lawful age, but knowing the uncertainties of this life, do hereby make, publish and declare this instrument to be my Last Will and Testament, hereby revoking any and all former wills, codicils and testamentary dispositions heretofore at any time made by me.

FIRST: I direct that all my just debts, including the expenses of my last illness and funeral expenses and expense of administering my estate be paid by my Executor as soon after my death as may be convenient.

SECOND: I will and bequeath to the FIRST METHODIST CHURCH of Marine City, Michigan, the sum of THREE THOUSAND (\$3,000.00) DOLLARS.

THIRD: I will and bequeath to ST. MARK'S EPISCOPAL CHURCH, of Marine City, Michigan, the sum of THREE THOUSAND (\$3,000.00) DOLLARS.

FOURTH: I will and bequeath to ST. MARTIN'S LUTHERAN CHURCH, of Marine City, Michigan, the sum of THREE THOUSAND (\$3,000.00) DOLLARS.

FIFTH: I will and bequeath to ST. JOHN'S UNITED CHURCH OF CHRIST of Marine City, Michigan, the sum of THREE THOUSAND (\$3,000.00) DOLLARS.

SIXTH: I will and bequeath to HOLY CROSS CATHOLIC CHURCH, of Marine City, Michigan, the sum of THREE THOUSAND (\$3,000.00) DOLLARS.

SEVENTH: I will and direct that the sum of THREE THOUSAND (\$3,000.00) DOLLARS be deposited at the Marine Savings Bank & Trust Co., a Michigan Banking Corporation, of Marine City, Michigan, in a fund to be used for the care, maintenance and upkeep of the Guy Mausoleum and Lot at Wood-lawn Cemetery Marine City Michigan

Bertha C. Guy May 1972

EIGHTH: I will, devise and bequeath the following described real estate to the City of Marine City for community buildings to be known as the "Guy Community Center", with a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy" to be displayed. I hereby give and grant unto the City of Marine City the power to sell and convey the following described real estate, providing the funds therefrom are used for a community building with the aforementioned suitable plaque erected therein:

PARCEL #1: Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: Lot 3, except the North 15 feet, also Lot 2, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office;

PARCEL #2: Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: Lot 4 and the North 15 feet of Lot 3, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office.

NINTH: I will, devise and bequeath to LEONE RANDOLPH, the following described real estate, commonly known as 421 Pearl Street, Marine City, Michigan:

Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: East 25 feet of Lots 5 and 6 Block 35, except South 10 feet of the East 25 feet of Lot 6, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office.

TENTH: I will and bequeath to my third cousin, CLARE HEWSEN, the sum of FIVE HUNDRED (\$500.00) DOLLARS.

ELEVENTH: I will and bequeath to the RIVER DISTRICT COMMUNITY HOSPITAL AUTHORITY, a Municipal Corporation, of 4100 South River Road, St. Clair, Michigan, 48079, the sum of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS for capital improvements, as a memorial, with a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy" to be displayed

Bertha C. Guy, May 1 1922

TWELFTH: I will, devise and bequeath all the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever kind or nature and wheresoever situated, whether acquired before or after the execution of this will, as follows:

One-fourth (1/4th) to my second cousin, HARMON REER;

One-fourth (1/4th) to my second cousin, GUY REER;

One-fourth (1/4th) to my second cousin, FREDERICK REER; and,

One-fourth (1/4th) to LEONE RANDOLPH,

as and for their absolute property forever, providing they survive me. However, in the event any of the above-named persons shall predecease me, his or her share hereunder shall be distributed equally to his or her issue living at the time of my death per stirpes; and however, in the event any of the above-named persons shall predecease me leaving no issue surviving, then his or her share hereunder shall be added to and distributable with the share or shares of those persons above-named surviving, or their issue as the case may be.

THIRTEENTH: I hereby nominate, constitute and appoint the MARINE SAVINGS BANK & TRUST CO., a Michigan Banking Corporation, of 358 South Water Street, Marine City, Michigan, 48039, sole Executor of this, my Last Will and Testament, and direct that its Acceptance of Trust be filed in lieu of bond.

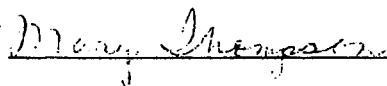
FOURTEENTH: I hereby authorize my Executor herein named to sell at public or private sale, and on such terms as it may deem proper, any real or personal property which may at any time form a part of my estate, without first obtaining a license to sell or confirmation of sale from the Probate Court having jurisdiction in the matter.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 1st day of May, A.D. 1972.

WE HEREBY ATTEST that the foregoing instrument was, on the date hereof in our presence, signed, sealed and declared by BERTHA C. GUY, the above-named Testatrix, to be her Last Will and Testament and we not being interested therein, have at her request and in her presence and in the presence of each other, signed our names as witnesses thereto.



of 361 South Water Street
Marine City, Michigan 48039



of 620 Mattison Road
Marine City, Michigan 48039

EXHIBIT 2

MARINE CITY CITY COMMISSION
Regular Meeting
September 20, 1973 (Cont'd)

NOTICE OF THE LAST DAY FOR RECEIVING
REGISTRATIONS FOR THE CITY ELECTION TO BE HELD
IN THE CITY OF MARINE CITY, MICHIGAN ON
TUESDAY, NOVEMBER 6, 1973

PLEASE TAKE NOTICE that any qualified elector of the City of Marine City, County of St. Clair, Michigan who is not already registered may register for the city election to be held on the 6th day of November, 1973, in said City.

The City Clerk will be at her office in the City Hall on each working day during regular working hours until and including Friday, October 5, 1973, for the purpose of receiving registrations of qualified electors of the City of Marine City not already registered.

On October 5, 1973, which is the last day for receiving registrations for said city election to be held on Tuesday, November 6, 1973, the City Clerk will be at her office between the hours of 8:00 o'clock a.m. and 8:00 o'clock p.m., for the purpose of receiving registrations of the qualified electors.

THE LAST DAY FOR RECEIVING REGISTRATIONS FOR SAID CITY ELECTION TO BE HELD TUESDAY, NOVEMBER 6, 1973, WILL BE FRIDAY, OCTOBER 5, 1973.

City Clerk

9. The City Clerk shall cause notice of the submission of said proposition to be published at least twice before the date of the election in the St. Clair County Independent Press, which is hereby declared to be a newspaper of general circulation in the City of Marine City, the first publication to be not less than ten (10) full days prior to the date of said election, and shall cause notice of said election to be posted as required by law. 10. The notice of the submission of the said proposition shall be in substantially the following form:

NOTICE OF ELECTION

TO THE REGISTERED ELECTORS OF THE CITY OF
MARINE CITY

PLEASE TAKE NOTICE that at the City Election to be held in the City of Marine City, County of St. Clair, Michigan, on the 6th day of November, 1973, from 7:00 o'clock a.m. to 8:00 o'clock p.m., Eastern Standard Time, there will be submitted to vote of the registered electors of said City, the following proposition:

General Obligation Street Bond Proposition

Shall the City of Marine City, County of St. Clair, Michigan, borrow the sum of not to exceed in principal amount Six Hundred Fifty Thousand (\$650,000.00) Dollars and issue its general obligation unlimited tax bonds therefor, for the purpose of defraying part of the cost of paving, draining and otherwise improving certain streets in the City of Marine City?

All qualified and registered electors of the City may vote on the above bonding proposition. The above bonds will be payable in not more than fifteen (15) annual installments, with interest on the unpaid balance at a rate of interest to be determined at public sale but in no event to exceed the rate of interest of SAID GENERAL OBLIGATION BONDS SHALL BE PAYABLE FROM

THE GENERAL FUNDS OF THE CITY, AND THE CITY IS REQUIRED BY LAW TO LEVY SUFFICIENT AD VALOREM TAXES, IF NECESSARY, FOR THE PAYMENT THEREOF, UPON ALL TAXABLE PROPERTY IN THE CITY, WITHOUT LIMITATION AS TO RATE OR AMOUNT.

The places of voting in said City will be as follows:

Precinct No. 1: Jefferson Street Gymnasium
425 Jefferson Street
Marine City, MI.

Precinct No. 2: Ward Cottrell School
308 S. Parker
Marine City, MI.

This Notice is given by authority of the City Commission of the City of Marine City, County of St. Clair, Michigan.

City Clerk

11. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

Yeas: Commissioners Beauchamp, Beauvais, Bettinger, Cohrs, Spaulding, LaBuhn, Arnold.

Nays: None. Resolution declared adopted.

(B) Mr. Ratcliff received a letter from Joe Piell of Miller, Canfield, Paddock and Stone, relative to the financing of Water and Sewer using Revenue Sharing money. In order to proceed with the installation of underground utilities prior to paving and so that we will have the necessary capital, some form of advance or interim financing will have to be done so that the cash will be on hand to pay contractors prior to the receipt of our total Revenue Sharing funds. Mr. Piell in his letter suggested a method by which this could be done without requiring additional tax levy.

(C) In conjunction with the above a preliminary application for Federal Funding for Sewer Improvements has been submitted. This particular application applies only to the conversion of sewers. This preliminary application for this funding has now been made.

Letter from U. S. Coast Guard - Lower Bridge. Mr. Ratcliff received a letter from Capt. Lindemann of the United States Coast Guard advising that he has received from Congressman Jim O'Hara complaints that the lower bridge does not open. Capt. Lindemann further advises that there is no record of Federal authorization granted to the City to close this bridge and further that if the bridge has been closed to navigation illegally it is requested that early action be taken to correct this situation. The Captain also included copies of the applicable laws and regulations pertaining to the maintaining of drawbridges. Mr. Ratcliff called the Captain's Office and advised him of our problem with the bridge. We are to relate to his office an outline of problems with the bridge and our proposals on how we wish to rectify the problems. Commissioner Beauvais thought we should petition Congress to declare that part of Belle River north of the lower bridge as a nonnavigable waterway in which case we could utilize our current bridge until it could be replaced by conventional span bridge. Mr. Ratcliff is to write the U. S. Coast Guard a letter that we are investigating the problem and that a letter go to our State and Federal Representatives asking for financial aid with this bridge and specifically indicating how the State created this problem. Motion by Commissioner Beauchamp supported by Cohrs that these letters be written to the above mentioned and this is to be done with as much dispatch as possible. Carried.

GUY ESTATE. Mr. Corden presented a Resolution regarding gift of Bertha Guy. Resolution by Commissioner Arnold supported by Cohrs, RESOLUTION RELATIVE TO THE DEVISE OF REAL PROPERTY TO THE CITY OF MARINE CITY, MICHIGAN, BY BERTHA C. GUY, DECEASED. WHEREAS, the late Bertha C. Guy devised

MARINE CITY CITY COMMISSION
Regular Meeting
September 20, 1973 (Cont'd)

the Probate Court for the County of St. Clair, Michigan (Calendar 46, page 376), to the City of Marine City, and WHEREAS, Paragraph Eighth of said Last Will and Testament with reference thereto, specifically provides as follows: I will, devise and bequeath the following described real estate to the City of Marine City for community buildings to be known as the "Guy Community Center", with a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy" to be displayed. I hereby give and grant unto the City of Marine City the power to sell and convey the following described real estate, providing the funds therefrom are used for a community building with the aforementioned suitable plaque erected thereon: Parcel #1: Land situated in the City of Marine City, St. Clair County, Michigan to-wit: Lot 3, except the North 15 feet, also Lot 2, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office; PARCEL #2: Land situated in the City of Marine City, St. Clair County, Michigan, to-wit: Lot 4 and the North 15 feet of Lot 3, Block 35, MAP OF THE VILLAGE OF MARINE, according to the plat thereof as recorded in the St. Clair County Register of Deeds Office. WHEREAS, The Marine Savings Bank and Trust Company, a Michigan Banking Corporation, duly qualified and acting Executor of the Estate of Bertha C. Guy, deceased, is prepared to execute the provisions of Paragraph Eighth, subject however to the City of Marine City providing certain assurances and making such covenants and promises as will properly effectuate the conditions set forth by the decedent in making said gift by devise, and WHEREAS, the City Commission of the City of Marine City gratefully acknowledges the generous gift of the decedent and is desirous for and on behalf of the City of Marine City to accept said gift under such terms and conditions as will give effect to and implement the desires of the decedent in said estate. NOW, THEREFORE, be it Resolved by the City Commission of the City of Marine City, Michigan, as follows: (1) The City of Marine City accepts the real estate described in Paragraph Eighth of the Last Will and Testament of Bertha C. Guy, Decedent, subject to all the terms and conditions provided therein, and will acknowledge by receipt a proper conveyance thereof. (2) The City of Marine City will designate the real estate so devised and conveyed as the "Guy Community Center" and will display thereon a suitable plaque inscribed "In Memory of Otto A. Guy and Bertha C. Guy". (3) In the event the City of Marine City exercises the power to sell and convey said real estate, as provided in Paragraph Eighth aforesaid, the City of Marine City covenants to use the funds therefrom for a community building to be designated the "Guy Community Center" with the aforementioned suitable plaque erected thereon. (4) The City of Marine City further covenants to establish, and by this Resolution does establish, in its books and records of account, a "Guy Community Center Fund", which fund shall consist of the real property hereinbefore described, funds from the sale thereof, any other real property purchased with said funds, the rental proceeds of any real property purchased by said fund, and any investment earnings of said fund; it is the express intention of the City of Marine City that upon acceptance of said gift and at all times thereafter there shall be maintained by virtue of said gift or the proceeds therefrom a "Guy Community Center", except for such reasonable and necessary periods caused by sale, repurchase, construction, reconstruction, or renovation as required in the best interests of the people of the City of Marine City and in order to give continuing purpose and effect to Paragraph Eighth of the Last Will and Testament of the decedent; and further, that any expenses incurred in connection with the maintenance and administration of the fund herein created shall be charged to said fund. (5) To the extent possible by law this Resolution shall bind the City of Marine City, its governing body and its successors. Yeas: Commissioners Beauchamp, Beauvais, Bettinger, Cohrs, Spaulding, LaBuhn, Arnold. Nays: None.

~~Complaint - Jerry Robinson Storage Tank.~~ Mr. Corden talked with Mr. Robinson and he promised to remove gas pumps and all the fuel. Mr. Ratcliff checked this out and the gas pump has been removed. Commissioner Spaulding recommended that a seal be put on the tank.

~~Committees - Electrical Board.~~ Mr. Ratcliff received a letter from Mr. Munro relative to the County Electrical Board. In summary he indicates that in the future we will receive copies of all minutes and that membership on the County Electrical Board is limited to those persons that specifically stated by the rule book of the Reciprocal Electrical Council.

~~Communications with Congressman O'Hara.~~ Mr. Ratcliff received a letter from O'Hara relative to federal assistance for our Capital Improvements. The Congressman indicated that there are currently no funds available.

~~Communication - County Road Commission.~~ Mr. Ratcliff received a letter from James Little-Director of the County Board of Road Commissioners relative to the construction of Chartier Road and its applicability as a truck route.

~~Communication - Paul Appel.~~ Mr. Ratcliff received a communication from Mr. Appel, Superintendent of Schools relative to our acquiring the property of the Intermediate School. He indicated that consideration is being given.

~~Communication - Community Fund.~~ Mr. Ratcliff received a letter from Mrs. Dorothy MacDonald requesting the approval of the City Commission to solicit door to door for the 1973 United Fund Campaign. The solicitation would begin the week of September 25. Motion by Commissioner Beauvais supported by Bettinger that this permission be given. Carried.

~~Communication - State Waterways Commission.~~ Mr. Ratcliff presented a check list from State Waterways Commission on the procedure to be followed if a community is interested in acquiring grant aid and funds for the development of boat launching facilities.

~~Seawall - Foot of Broadway.~~ In an effort to correct an erosion problem around the seawall at the foot of Broadway we have contacted Mr. Jisker to build a top on that seawall. This work would be identical to that which was performed for Mr. Christie on his seawall adjacent to the foot of Broadway. The steel has been ordered and is expected to be completed within the next three to four weeks. It was estimated that the cost of this improvement will be 500 to 600 dollars with funds to come from the Park Development Fund or the Recreation Department.

~~Report - Michigan Municipal League Meeting.~~ Commissioners Arnold and Bettinger reported on the League meeting which they attended in Grand Rapids. Commissioner Bettinger stated that he had copies of the various speeches and of the resolutions and they were available to anyone who wished to review them. Commissioner Bettinger stated that it was a very informative meeting and wished to thank the City Manager and the City for allowing him the opportunity to attend this meeting.

~~August Police Report.~~ Commissioner Beauchamp asked for a written evaluation on the Radar unit. Motion by Commissioner Beauvais supported by Cohrs that the Police Report for August be accepted.

~~Financial Report.~~ After discussion on the Financial Report, motion by Commissioner Bettinger supported by Cohrs to accept the Financial Report and place on file. Carried.

~~Payment of Vouchers.~~ Resolution by Commissioner Bettinger supported by Spaulding, BE IT RESOLVED: That the expenditures in the General Fund in the amount of \$9,112.25, and the expenditures in the Water Fund in the amount of \$3,329.30, and the expenditures in the Major Road Fund in the amount of \$12.30, and the expenditures in the Local Road Fund in the amount of \$544.48, a total expenditure of \$12,998.33 be paid in the usual manner. Yeas: Commissioners Beauvais, Bettinger, Cohrs, Spaulding, LaBuhn, Arnold, Beauchamp. Nays: None.

~~Annual Audit.~~ Mr. Dennis Griesbach was present and submitted his Audit and his comments and recommendations. The Commission asked for time to study this and asked that Mr. Griesbach meet with the City Commission.

EXHIBIT 3

NOTICE TO THE PUBLIC OF THE
RECORDING OF THIS INSTRUMENT
IN THE PUBLIC RECORDS OF THE
STATE OF MICHIGAN

WILLIAM A. SARTI of
MARINE CITY, MICHIGAN
350 SOUTH WATER STREET
MARINE CITY, MICHIGAN 48039

*Original to
Corder
11-21-73*

Recorded for Record No. _____
day of _____, A.D. 1973
at _____ o'clock _____ A.M. and _____
in Liber _____ of Volume _____
on page _____

That on September 28th 1973,

Sum of NO DOLLARS
MARINE BANK & TRUST, successor to Marine Savings Bank & Trust Co., a
Michigan Banking Corporation, Executor of the Estate of Bertha C. Gay,
deceased, St. Clair County Probate File No. 46-376;
350 South Water Street, Marine City, Michigan 48039
CONVEY TO
CITY OF MARINE CITY,

whose address is
350 Broadway, Marine City, Michigan 48039 the following described premises
situated in the City of Marine City, St. Clair County, Michigan, to-wit:

PARCEL 1: Lot 3, EXCEPT the North 15 feet, also Lot 2,
Block 35, MAP OF THE VILLAGE OF MARINE, ac-
cording to the plat thereof as recorded in
the St. Clair County Register of Deeds Office.

PARCEL 2: Lot 4 and the North 15 feet of Lot 3, Block
35, MAP OF THE VILLAGE OF MARINE, according
to the plat thereof as recorded in the St.
Clair County Register of Deeds Office.

THIS CONVEYANCE IS EXEMPT FROM TRANSFER TAX UNDER P.A. 327
of 1968, Section 5 (a).

Subject to conditions, covenants, easement and building and use restric-
tions of record, if any.

(If more space is needed for description, restrictions or other provisions, use reverse side)
Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise
appertaining.

Signed in Presence of:

W.J. Streletz
R.F. Seattle

Signed by:

MARINE BANK & TRUST, a Michi-
gan Banking Corporation
BY: S.W. STEINMETZ, President
and Trust Officer

STATE OF MICHIGAN
County of St. Clair

The foregoing instrument was acknowledged before me
this 28th day of September, 1973,
(Date)

Notary Public in and for the State of Michigan

EXHIBIT 4

**M
W**
MID-WEST APPRAISAL COMPANY

916 MILITARY STREET
FORT HURON, MICHIGAN 48040
TELEPHONE 982-4491

July 20, 1973

Mr. Michael Ratcliff
City Manager
City Hall
Marine City, Michigan

Re: 133 N. Elizabeth Street
Marine City, Michigan

Dear Mr. Ratcliff:

As per your request, our real estate appraisal firm has inspected the above captioned, and we are now prepared to offer the following opinion of it's market value.

This is a "Letter of Opinion," and should not be construed as a complete narrative type appraisal.

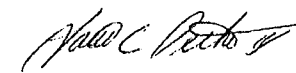
Possession of this letter of opinion, or a copy thereof, does not carry with it the right of publication and may not be used for any other purpose by any but the City of Marine City; without previous consent of the writer or in any event with proper qualification.

The estimated opinion of value is based on market sales of properties that are considered comparable. The sales which were analyzed are located in the same area and same market influences as the subject property. Adjustments were made for advantages and disadvantages to show the degree of comparability of the subject property when compared to the sales. The sales which were analyzed reflect a value as of July 18, 1973.

After taking into consideration all factors affecting value it is my opinion that the estimated Market Value of the subject property as of July 18, 1973 is FIFTEEN THOUSAND DOLLARS (\$15,000.00).

Respectfully submitted,

MID-WEST APPRAISAL CO., INC.


Louis C. Petho, III, S.R.A.

LCP/pl

REAL PROPERTY VALUATIONS

Better Bay

March 1, 1974

Mr. Robert Randolph
133 N. Elizabeth
Marine City, MI 48039

Dear Mr. Randolph:

I wanted to let you know that we now received the warranty, the title and title insurance for the property you purchased at 133 N. Elizabeth. According to my notes the purchase price was \$18,025.00 and \$1,800.00 was submitted as a deposit. This would leave a balance to be paid of \$16,225.00. In addition the 1973 taxes from the county in the amount of \$190.21 and from the City in the amount of \$294.71 have not been paid. However, a portion of those taxes are payable by the City. Enclosed with this letter is a detailed breakdown of the amounts appearing to be due. As we would like to get this matter settled and realizing that there has been some delay while we have tried to get the policy. Please let me know when we can get together to sign the final papers for this house.

Sincerely yours,

Michael Ratcliff
City Manager

MR/gh

SELLER'S CLOSING STATEMENT

June 4, 1974

SELLER: City of Marine City

PURCHASER: Robert Randolph

PROPERTY: 133 N. Elizabeth Street
Marine City, Michigan 48039

Sales Price \$18,025.00

Tax Pro-Ration:

Summer Tax (\$190.21) 31.70

Winter Tax (\$294.71) 147.36

\$18,204.06

Deposit \$ 1,802.50

Net due Seller to close 16,401.56

\$18,204.06

EXHIBIT 5

**M
W**
MID-WEST APPRAISAL COMPANY

916 MILITARY STREET
PORT HURON, MICHIGAN 48060
TELEPHONE 982-4491

July 20, 1973

Mr. Michael Ratcliff
City Manager
City Hall
Marine City, Michigan

Re: 109 N. Elizabeth St.
Marine City, Michigan

Dear Mr. Ratcliff:

As per your request, our real estate appraisal firm has inspected the above captioned, and we are now prepared to offer the following opinion of it's market value.

This is a "Letter of Opinion," and should not be construed as a complete narrative type appraisal.

Possession of this letter of opinion, or a copy thereof, does not carry with it the right of publication and may not be used for any other purpose by any but the City of Marine City; without previous consent of the writer or in any event with proper qualification.

The estimated opinion of value is based on market sales of properties that are considered comparable. The sales which were analyzed are located in the same area and same market influences as the subject property. Adjustments were made for advantages and disadvantages to show the degree of comparability of the subject property when compared to the sales. The sales which were analyzed reflect a value as of July 18, 1973.

After taking into consideration all factors affecting value it is my opinion that the estimated Market Value of the subject property as of July 18, 1973 is TWENTY TWO THOUSAND DOLLARS (\$22,000.00).

Respectfully submitted,

MID-WEST APPRAISAL CO., INC.



Louis C. Petho, III, S.R.A.

LCP/pl

REAL PROPERTY VALUATIONS

109. N. Elizabeth

Purchase Price	24,000
Deposit Received	<u>1,000</u>
	23,000 Balance Due

Taxes

Assessed Value	12,800
City (Summer)	245.12
County School (Winter)	395.01

City Taxes

9 Months - City	- 183.84
3 Months - Owner	- 61.28

County Taxes

5 Months - City	164.59
7 Months - Owner	230.42

Due City

Balance on House	23,000
City Taxes	61.28
County / School Taxes	<u>230.42</u>
	23,291.70

April 12, 1974

109 N. Elizabeth

Purchase Price	\$24,000
Deposit received	<u>1,000</u>
	\$23,000 Balance Due

Taxes:

Assessed Value	\$12,800
City (Summer)	\$245.12
County School (Winter)	395.01

City Taxes:

9 Months - City	\$ 183.84
3 Months - Owner	61.28

County Taxes:

5 Months - City	164.59
7 Months - Owner	230.42

Due City:

Balance on House	\$23,000.00
City Taxes	61.28
County/School Taxes	<u>230.42</u>
TOTAL	\$23,291.70

EXHIBIT 6

EXHIBIT 7

FW

Proposed
GUY COMMUNITY CENTER
Operating Regulations

- (1) The City Commission has established the Guy Center as the official location of all City Government meetings. These meetings shall have first priority in scheduling activities at the Center.
- (2) The offices of the Recreation Commission shall be located in the Guy Center. Activities sponsored by the Recreation Commission shall have second priority in scheduling activities.
- (3) Any sponsored group within the Community is welcomed and encouraged to use the Guy Center. Usage shall be subject to the following:
 - (a) Reservation of the Center will be on a first-come basis. No group may reserve use of the Center for more than a 6-month period.
 - (b) Reservation for use must be made at least 5 days in advance of the scheduled meeting date. All groups using the facility will be asked to complete a Request form. Reservation forms may be obtained at City Hall.
 - (c) There will be no charge for using this facility. However, any damage occurring during use will be the responsibility of the group using the facility.
 - (d) Limited kitchen facilities are available. Groups using these facilities must furnish their own cookware and dinner ware. It is required that after use, the equipment used will be cleaned.
- (4) Use of the Center is restricted to non-profit Marine City organizations.
- (5) The City Manager will maintain a calendar of events for the Community Center and all activities shall be scheduled through his office. Use by groups meeting the above criteria may be approved by the Community Center Board. Any other uses shall be approved in advance by the City Commission.

As approved by the Community Center Board as of 1-20-75.