



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

(180)

COLLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVE., FOURTH FLOOR
DETROIT, MICHIGAN 48226
(313) 224-6484 • TTY: 711
WWW.DETROITMI.GOV

July 29, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 10203 Lakepointe
NAME: Americastar Michigan LLC
Date ordered removed: 9/14/15

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 6, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
 - **Certificate of Acceptance related to building permits**
 - **Certificate of Approval as a result of a Housing Inspection**
 - **Certificate of Inspection, required for all residential rental properties.**
3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

CITY CLERK 2 AUG 2016 AM 9:29

cc: Americastar Michigan LLC, 1628 SE 2nd CT, Fort Lauderdale, FL 33301
DET 123 Fund LLC, 302 S. Main ST #302, Royal Oak, MI 48067
ATTN: J.P. Bouka



July 28, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 12373 Griggs
NAME: DET 123 Fund LLC
Date ordered removed: 3/17/2014**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
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3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: DET 123 Fund LLC, 900 Wiltshire 202-45, Troy, MI 48084
DET 123 Fund LLC, 302 S. Main ST #200, Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 2 AUG 2016 4:43:30



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

(182)

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVE., FOURTH FLOOR
DETROIT, MICHIGAN 48226
(313) 224-0484 • TTY: 711
WWW.DETROITMI.GOV

July 29, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 10442 Lakepointe
NAME: DET 123 Fund LLC
Date ordered removed: 3/14/2016**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

CITY CLERK 2 9UG 2016 4M5:30

cc: DET 123 Fund LLC, 900 Wiltshire 202-45, Troy MI 48084
DET 123 Fund LLC, 302 S. Main ST #302, Royal Oak, MI 48067
ATTN: J.P. Bouka



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

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July 7, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 11421 Dexter Ave.
NAME: 11421 Dexter Ave., LLC
Date ordered removed: 7/20/2015**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **June 17, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

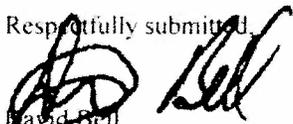
1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
 - **Certificate of Acceptance related to building permits**
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4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,


David Bell
Director

DB:bkd

CITY CLERK 22 JUL 2016 AM 9:25

cc: 11421 Dexter Ave., LLC, 11421 Dexter Ave., Detroit, MI 48206
11421 Dexter Ave., LLC, 71 Doscher #1, Brooklin, NY 11208
ATTN: Ian Gross



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

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August 5, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 8769 Lane
NAME: Saul Quinonez Bustamante
Date ordered removed: 9/24/2013

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **August 3, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
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 - **Certificate of Inspection, required for all residential rental properties.**
3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

CITY CLERK 9 AUG 2016 4:11 PM

cc: Saul Quinonez Bustamante, 1123 Crawford, Detroit, MI 48209
Saul Quinonez, 8679 Lane ST, Detroit, MI 48209



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

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COLLAMAN A. YOUNG MUNICIPAL CENTER
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July 27, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 9095 Cloverlawn
NAME: Neighborhood Investment Group LLC
Date ordered removed: 7/28/14

CITY CLERK 18 JUL 2016 4:11 PM

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 28, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

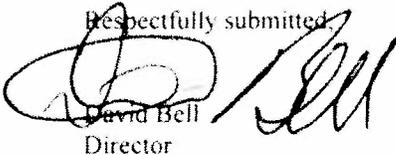
1. A permit for rehabilitation work shall be obtained within 30 days.
2. The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:
 - Certificate of Acceptance related to building permits
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 - Certificate of Inspection, required for all residential rental properties.
3. The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).
4. The yards shall be maintained clear of weeds, junk and debris at all times.

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,


David Bell
Director

DB:bkd

cc: Neighborhood Investment Group LLC, 2720 Fenkell #38865, Detroit, MI 48238
ATTN: Sherrie Lewis



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

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August 17, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 5636 Greenview
NAME: Earl Legion
Date ordered removed: 7/25/2011**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **August 12, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

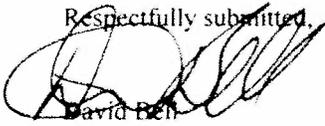
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2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
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We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,


David Ben
Director

DB:bkd

CITY CLERK 24 AUG 2016 9:58:47

cc: Earl Legion, 6228 Rosemont, Detroit, MI 48228
Earl Legion, 5636 Greenview, Detroit, MI 48228



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

(187)

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August 17, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 17308 Mendota
NAME: Rochelle Key
Date ordered removed: 10/27/14

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **August 15, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

CITY CLERK 24 AUG 2016 09:47

cc: Rochelle Key, 25506 Shiawassee, #65, Southfield, MI 48033
Rochelle Key, P.O. Box 48356, Oak Park, MI 48237



August 25, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 11300 Rossiter
NAME: Ameristar Michigan LLC
Date ordered removed: March 14, 2016**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 6, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

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A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: Ameristar Michigan LLC, 1628 S.E. 2nd CT, Fort Lauderdale, FL 33301

CITY CLERK 26 AUG 2016 PM 3:49



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

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COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVE., FOURTH FLOOR
DETROIT, MICHIGAN 48226
(313) 224-0484 • TTY: 711
WWW.DETROITMI.GOV

August 25, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 18418 Waltham
NAME: DET 123 Fund, LLC
Date ordered removed: Nov. 10, 2014**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

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Respectfully submitted,

David Ben
Director

DB:bkd

cc: 123 Fund LLC, 302 S. Main St. #200, Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 26 AUG 2016 PM 3:49



August 25, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 18659 Barlow
NAME: DET 123 Fund, LLC
Date ordered removed: Sept. 28, 2015**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

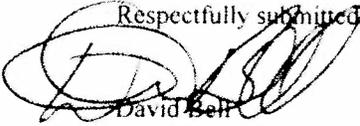
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Respectfully submitted,


David Bell
Director

DB:bkd

cc: 123 Fund LLC, 302 S. Main St. #200, Royal Oak, MI 48067
ATTN: J.P. Bouka



August 25, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 15508 Sussex
NAME: DET 123 Fund, LLC
Date ordered removed: May 11, 2015

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 6, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

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Respectfully submitted,



David Bell
Director

DB:bkd

cc: 123 Fund LLC, 302 S. Main St. #200, Royal Oak, MI 48067
ATTN: J.P. Bouka



August 23, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 16521 Woodingham
NAME: DET 123 Fund LLC
Date ordered removed: 7/20/2010**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 5, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

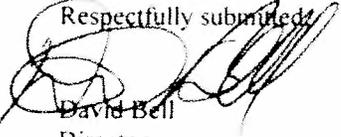
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Respectfully submitted,


David Bell
Director

DB:bkd

cc: DET 123 Fund LLC, 900 Wiltshire #202-45, Troy, MI 48084
DET 123 Fund LLC, 302 S. Main ST, #200 Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 25 AUG 2016 PM 3:49



August 23, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 11761 Sorrento
NAME: DET 123 Fund LLC
Date ordered removed: 10/29/15

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
 - **Certificate of Acceptance related to building permits**
 - **Certificate of Approval as a result of a Housing Inspection**
 - **Certificate of Inspection, required for all residential rental properties.**
3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,



David Bell
Director

DB:bkd

cc: DET 123 Fund LLC, 900 Wiltshire #202-45, Troy, MI 48084
DET 123 Fund LLC, 302 S. Main ST, Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 26 AUG 2016 PM3:50



August 24, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 19391 Winston
NAME: DET 123 Fund, LLC
Date ordered removed: April 9, 2013**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
 - **Certificate of Acceptance related to building permits**
 - **Certificate of Approval as a result of a Housing Inspection**
 - **Certificate of Inspection, required for all residential rental properties.**
3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: DET 123 Fund LLC, 302 S. Main St. #200, Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 25 AUG 2016 4:50



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

195

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVE., FOURTH FLOOR
DETROIT, MICHIGAN 48226
(313) 224-6484 • TTY: 711
WWW.DETROITMI.GOV

August 24, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 18209 Murray Hill
NAME: Ameristar Michigan, LLC
Date ordered removed: April 14, 2014

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016** revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 2nd deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. A permit for rehabilitation work shall be obtained within 30 days.
2. The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:
 - Certificate of Acceptance related to building permits
 - Certificate of Approval as a result of a Housing Inspection
 - Certificate of Inspection, required for all residential rental properties.
3. The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).
4. The yards shall be maintained clear of weeds, junk and debris at all times.

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,



David Ben
Director

DB:bkd

cc: Ameristar Michigan LLC, 1628 SE 2ND Court, Fort Lauderdale, FL 33301
DET 123 Fund LLC, 302 S. Main St. #200, Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 26 AUG 2016 PM 3:50



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

196

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WWW.DETROITMI.GOV

August 24, 2016

HONORABLE CITY COUNCIL

RE: ADDRESS: 11325-27 Littlefield
NAME: Pentagon Properties Detroit, LLC
Date ordered removed: May 2, 2016

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on July 5, 2016 revealed the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. A permit for rehabilitation work shall be obtained within 30 days.
2. The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:
 - Certificate of Acceptance related to building permits
 - Certificate of Approval as a result of a Housing Inspection
 - Certificate of Inspection, required for all residential rental properties.
3. The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).
4. The yards shall be maintained clear of weeds, junk and debris at all times.

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: Pentagon Properties Detroit, LLC, 2131 Hollywood Blvd., #306, Hollywood, FL 33020
Heavenly Solutions, 15200 W. 8 Mile RD, #100, Oak Park, MI 48237
ATTN: Nikki V. Curl

CITY CLERK 26 AUG 2016 PM 3:50



August 23, 2016

HONORABLE CITY COUNCIL

**RE: ADDRESS: 19490 Prairie
NAME: DET 123 Fund LLC
Date ordered removed: 11/16/2015**

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection on **July 7, 2016 revealed** the building is secured and appears to be sound and repairable. The owner has paid all taxes and is current. The proposed use of the property is owner's use and occupancy. **This is the 1st deferral request for this property.**

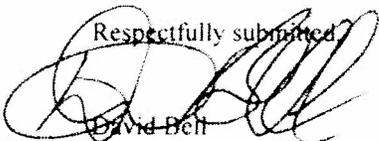
Therefore, it is recommended that the demolition order be deferred for a period of six months subject to the following conditions:

1. **A permit for rehabilitation work shall be obtained within 30 days.**
2. **The building shall be maintained securely barricaded until rehabilitation is complete. Rehabilitation is to be complete within six months, at which time the owner will obtain one of the following from this department:**
 - **Certificate of Acceptance related to building permits**
 - **Certificate of Approval as a result of a Housing Inspection**
 - **Certificate of Inspection, required for all residential rental properties.**
3. **The owner shall not occupy or allow occupancy of the structure without a certificate (as outlined above).**
4. **The yards shall be maintained clear of weeds, junk and debris at all times.**

We recommend that utility disconnect actions cease to allow the progress of the rehabilitation.

At the end of the deferral period, the owner must contact this department to arrange an inspection to evidence that conditions of the deferral have been maintained and that there has been substantial progress toward rehabilitation. If the building becomes open to trespass or if conditions of the deferral are not maintained, we may proceed with demolition without further hearings. And, pursuant to the Property Maintenance Code we will issue a Blight Violation Notice.

A request for deferral exceeding four must be made by petition to City Council through the office of the City Clerk.

Respectfully submitted

David Bell
Director

DB:bkd

cc: DET 123 Fund LLC, 900 Wiltshire #202-45, Troy, MI 48084
DET 123 Fund LLC, 302 S. Main ST, #200 Royal Oak, MI 48067
ATTN: J.P. Bouka

CITY CLERK 26 AUG 2016 4:50



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

(198)

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July 13, 2016

HONORABLE CITY COUNCIL

RE: 16810 Woodbine

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection conducted on **June 16, 2016** revealed that the property did not meet the requirements of the application to defer. The property continues to be open to trespass and not maintained.

Therefore, we respectfully recommend that the request for a deferral be denied. We will proceed to have building demolished as originally ordered with the cost of demolition assessed against the property.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: J P Morgan Chase Bank, 800 Brooksedge Blvd., Westerville, OH 43081
J P Morgan Chase Bank, 7255 Baymeadows Way, Jacksonville, FL 32256
William Kelly, 28345 Beck RD, Wixom, MI 48381

CITY CLERK 19 JUL 2016 04:11:14



CITY OF DETROIT
BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL DEPARTMENT

(199)

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DETROIT, MICHIGAN 48226
(313) 224-0484 • TTY: 311
WWW.DETROITMI.GOV

July 13, 2016

HONORABLE CITY COUNCIL

RE: 1984 Meade

In response to the request for a deferral of the demolition order on the property noted above, we submit the following information:

A special inspection conducted on **June 2, 2016** revealed that the property did not meet the requirements of the application to defer. The property continues to be open to trespass and not maintained.

Therefore, we respectfully recommend that the request for a deferral be denied. We will proceed to have building demolished as originally ordered with the cost of demolition assessed against the property.

Respectfully submitted,

David Bell
Director

DB:bkd

cc: Dorothy Wilson, 1984 Meade, Detroit, MI 48212
Dorothy Wilson, 20203 Danbury, Detroit, MI 48203

CITY CLERK 19 JUL 2016 AM 11:14

200
CITY CLERK 2016 AUG 9 AM 11:38

David Whitaker, Esq.
Director
Irvin Corley, Jr.
Executive Policy Manager
Marcell R. Todd, Jr.
Senior City Planner

LaKisha Barclift, Esq.
M. Rory Bolger, PhD, AICP
Timothy Boscarino, AICP
Kemba Braynon
Elizabeth Cabot, Esq.
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Tasha Cowan

City of Detroit CITY COUNCIL

LEGISLATIVE POLICY DIVISION
208 Coleman A. Young Municipal Center
Detroit, Michigan 48226

Phone: (313) 224-4946 Fax: (313) 224-4336

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Thomas Stephens, Esq.
David Teeter
Theresa Thomas
Kathryn Lynch Underwood

TO: The Honorable Detroit City Council
FROM: David Whitaker, Director 
Legislative Policy Division (LPD) Staff
DATE: August 8, 2016
RE: **Establishing truck routes in the City**

On July 18, 2016, Council Members Benson and Castañeda-López requested that LPD provide a report on best practices and draft legislation for establishing truck routes in the City. This is LPD's report in response to that referral.

Applicable Law

It is well established law in Michigan that cities have the right to enact reasonable regulations for the use of their streets. In *Township of Robinson v Board of County Road Commissioners*, 114 Mich App 405 (1982), the Michigan Court of Appeals held that the Township's designation of certain trucking routes was reasonable, and therefore lawful. (opinion attached) In response to citizen complaints about noise, dust and danger to school children caused by sand and gravel trucks, the township enacted an ordinance prohibiting such trucks from using a particular connector road, and specifying another route that was about 12 miles longer round trip. The courts upheld the township's power to enact such an ordinance against the county road commission's challenge. The decision is primarily based on the State Constitution of 1963, Art. VII, Sec. 29, which provides:

"No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. **Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.**" (emphasis added)

The Court of Appeals went on to state that **the party alleging the unreasonableness** of an ordinance regulating truck routes **has the burden of proving it is unreasonable**. Legislation must bear a reasonable relation to a permissible legislative objective, which includes designating truck routes.

More recently, in *Oshtemo Charter Township v Kalamazoo County Road Comm.*, 302 Mich App 574 (2013) (opinion attached), the Court of Appeals held that a township's truck route ordinance did not conflict with state law. The court reasoned that local governments may protect their specifically reserved constitutional rights on behalf of the public they represent. Constitutional and statutory provisions that grant power to local municipalities' governments must be liberally construed. The township's ordinance that prohibited heavy trucks on specified routes did not conflict with state law, either directly or by conflicting with a promulgated rule. The county road commission had no authority to void a reasonable local ordinance regulating truck routes.

Discussion

Notwithstanding the City's clear legal power to designate reasonable truck routes within its boundaries, the practical difficulties of doing so, in a large and diverse community where adjacent industrial, commercial and residential areas have different and sometimes conflicting needs, should not be underestimated. The essential challenge is well-summarized in the attached January 2014 post from the web site Streetsblog USA:

“About 350 pedestrians, cyclists and motorcyclists are killed each year by large trucks in this country. **Big freight trucks are incompatible with cities in many ways, bringing danger, pollution, noise, and traffic congestion. They park in bike lanes and have shockingly big blind spots, putting everyone around them at risk. And yet, most cities haven't found a way to reconcile the need to move goods with all their other priorities.** ... About 80 percent of freight in cities is delivered by trucks, and those trucks pose a significant threat to livability.”¹ (emphasis added)

In December 2011 a Vermont-based consultant for the Ontario Trucking Association published a guide for municipal officials to establishing truck routes, which includes the following general, practical suggestions:

“When contemplating planning a truck route, the municipality should reach out to all relevant stakeholders, including the trucking industry, law enforcement agencies, emergency management agencies, municipal and provincial [or state] transportation officials, interest groups, transit providers, business leaders, school officials, and public works officials, etc. It may be beneficial to create a Truck Route Plan Technical Committee comprised of these officials to assist in the development of the plan.

The keys are to have all relevant stakeholders involved in the planning process. Although all parties may not agree on the final result of the planning process, it is important to ensure that

¹ <http://usa.streetsblog.org/2014/01/09/trucks-and-cities-are-like-oil-and-water-heres-a-solution/> “Trucks and Cities Are Like Oil and Water. Is There a Solution?” by Tanya Snyder

everyone has a voice in that process. One of the most important aspects of local truck route planning involves regional coordination. Since major truck routes are typically located in multiple jurisdictions, each community must work cooperatively to ensure continuity regarding truck route bylaw plans, routes and existing and future land uses. A regional partnership is essential to preserve local truck routes, ultimately ensuring an efficient transportation system and a prosperous economy.”²

The Ontario Trucking Industry guide further provides the following advice on the process of actually developing such an ordinance establishing truck routes:

“The process of developing a municipal truck route and bylaw is based on a comprehensive assessment of the truck situation and, if correctly implemented, the process leads to a systematic determination of options for accommodating trucks on the local street system. ... The process involves collecting and analyzing data to define the work scope, evaluate alternatives, develop and implement regulations, and establish a periodic review to determine the overall effectiveness of the regulations and amend the plan and bylaw as necessary to achieve the desired results.”

The guide identifies the following roadway characteristics as most important in assessing a truck route:

- Existing Truck Routes
- Adjacent Land Uses
- Bridge Locations
- Roadway Classification or Type
- Number of Lanes
- Constrained Road Status
- Traffic Analysis

This guide concludes with the following broad recommendations:

“For municipal officials, it is important to address the community concerns and quality of life issues associated with truck movements while recognizing the needs and the economic importance of freight for the business community. Municipalities have a variety of avenues for improving the planning process for transportation and land use related to truck route planning. Possible tools for municipal truck route planning include:

Clearly define existing truck routes through mapping and signage initiatives and identify new truck routes where possible. Identify and post signs in locations lacking clear indication of height restrictions and weight limitations.

Incorporate Intelligent Transportation System (ITS) technologies into the municipal transportation network to manage capacity and demand. ITS for traffic management includes

² Quoted excerpts from the report are attached. The full report is available from LPD upon request, or on line at:

<http://www.omkn.ca/OMKN-Docs/Best-Practices/Beneficial-Reports/111201OTAGuideFINAL.aspx>

dynamic message signs, which direct truck drivers and motorists to alternative routes to avoid accident scenes and congestion.

Explore options for providing business incentives supporting off-peak freight transportation to minimize truck impacts on morning and evening commuter congestion.

Proper land use planning can support truck transportation needs and promote economic development in a manner that reduces traffic congestion and increases both land use and transportation efficiencies.

Locate freight intensive land uses close to major highways and freight rail routes and promote concentrated industrial development in suitable locations through a freight village concept, and encourage development of industrial sites that provide an array of services for the trucking sector and other freight industries in close proximity to each other. This reduces the number of trucks that need to travel on local roads between locations and helps cargo move more efficiently to their final destinations. Freight Villages, like truck stops and weigh stations, also provide a secure and convenient area for freight operators to eat and rest.

Account for truck access and circulation for site plan approvals for nonindustrial sites with anticipated truck activity, such as retail centers. Include provisions for on-street and off-street loading zones in commercial districts.

Address potential problems with trucks parking on public streets and highway shoulders by incorporating on-site truck parking requirements for industrial and commercial sites.

Communication can also be an effective means of ensuring that trucking operations and facilities act as good neighbors within the community. Having a common understanding of the issues, educating and building awareness, keeping an open dialogue, and organizing and working together to craft solutions can help to avoid misconceptions and foster mutual cooperation.”

Another report prepared by a consultant for the city of San Mateo, California sets forth the following principles for establishing truck routes in cities:

“Cities are obligated to ensure that adequate, convenient truck access is provided from the regional transportation system to commercial and industrial areas. Truck routes are established, signed and enforced to ensure that trucks use streets that are designed for the heavier vehicles. These are normally streets designated as Collector or Arterial streets in the City’s General Plan Circulation Element. Designation of truck routes permits enforcement when trucks use residential streets. In this way, truck routes are intended to support the protection of residential areas from unnecessary intrusion by trucks. The protection of residential areas can be reinforced using regulatory “No Trucks” signing. This signage can only be enforced if reasonable truck route alternatives are provided and clearly signed. However, it is not possible to define routes in San Mateo that do not impact some residential areas since our collector and arterial streets are often fronted by residential uses.

This philosophy suggests that the selection and designation of truck routes should be based on the following principals:

- Adequate and convenient truck routes must be provided to commercial and industrial areas...
- Designated routes should reflect current truck access patterns and should not attract additional trucks to streets not currently used by trucks

- Routes should be as direct as possible and should impact as few residential properties as possible
- The number of routes should be minimized [and]
- Routes should be defined from the regional system to the commercial or industrial areas and need not define circulation within the commercial areas...³

The Tennessee Department of Transportation has issued the attached two-page summary that suggests the following framework for developing such policies:

“HOW TO CREATE TRANSPORTATION ORDINANCES

PROJECT DEVELOPMENT

Leadership Commitment Community leaders must demonstrate a clear commitment to support the project.

Visioning and Consensus Establishing a shared vision allows the community to set project goals and objectives. Understanding needs and developing support from the community is vital to start the planning, design, and implementation processes.

Planning and Design Communities should leverage local resources and knowledge to assist in guiding project activities to best meet the needs of their community. Tailoring best practices to meet local conditions and desires will assist in developing an implementable, successful planning study.” (emphasis in original)

In sum, while the City’s legal authority to establish truck routes within the City is well established, the practical challenges to doing so in a way that adequately serves the interests of all stakeholders are considerable; they will require a significant commitment of City resources, as well as outreach and collaboration with regional and industry leaders.

If Council has any other questions or concerns regarding this subject, LPD will be happy to provide further research and analysis upon request.

³ Quoted excerpts from the report are attached. The full report is available from LPD upon request, or on line at: <http://www.cityofsanmateo.org/DocumentCenter/Home/View/3166>

114 Mich.App. 405
 TOWNSHIP OF ROBINSON,
 Plaintiff-Appellee,

v.

BOARD OF COUNTY ROAD COMMISSIONERS OF the COUNTY OF OTTAWA, Defendant-Appellant.

Docket No. 55207.

Court of Appeals of Michigan.

Submitted Feb. 2, 1982.

Decided March 19, 1982.

Released for Publication May 28, 1982.

Board of county road commissioners appealed from a judgment of the Ottawa Circuit Court, Calvin L. Bosman, J., upholding an ordinance enacted by township designating certain roads within its boundaries as truck routes and forbidding the use of other roads by certain types of trucks. The Court of Appeals held that: (1) township had the legal authority to enact the ordinance without the consent of the board of county road commissioners, and board could not refuse to post signs required to make the ordinance work effectively unless the ordinance was unreasonable, and (2) the ordinance was not unreasonable, in that the evidence was insufficient to establish that the ordinance was not a reasonable response to local and peculiar concerns in the township arising from the transportation of sand and gravel.

Affirmed.

1. Automobiles ⇌5(1)

Township had legal authority under Constitution and statutes to enact ordinance designating certain roads within its boundaries as truck routes and forbidding the use of other roads by certain types of trucks without consent of board of county road commissioners, and board could not refuse to post signs required to make the ordinance work effectively unless the ordinance was unreasonable. M.C.L.A.Const. Art. 7, §§ 16, 29; M.C.L.A. §§ 41.181, 257.606(1)(h), 257.609(b), 257.726, 257.951; § 247.2 (Repealed).

2. Municipal Corporations ⇌122(2)

A party challenging an ordinance regulating truck routes has burden of showing that the ordinance is unreasonable.

3. Automobiles ⇌7

Ordinance enacted by township designating certain roads within its boundaries as truck routes and forbidding the use of other roads by certain types of trucks was not unreasonable, in that the evidence was insufficient to establish that the ordinance was not a reasonable response to local and peculiar concerns in the township arising from transportation of sand and gravel.

Scholten & Fant by Gregory J. Rappleye, Grand Haven, for plaintiff-appellee.

Dalman, Murphy, Bidol & Bouwens, P.C., Holland, for defendant-appellant.

Before ALLEN, P. J. and R. B. BURNS and J. H. GILLIS, JJ.

PER CURIAM.

Which unit of government has the authority to regulate truck traffic within a township's boundaries, the township or the board of county road commissioners? On March 27, 1979, the trial court held that a township may enact a truck route ordinance without the consent of the board of county road commissioners (BCRC), but that the commissioners could withhold their consent if the ordinance was unreasonable. On November 19, 1980, following an evidentiary trial on the merits, the trial court found the proposed ordinance to be reasonable. From both decisions and judgments entered in accordance therewith, defendant BCRC appeals of right. We affirm.

This question of apparent first impression comes to us on the following facts. On April 27, 1978, in response to citizen complaints concerning the high volume of gravel truck traffic on certain roads within the township, plaintiff enacted an ordinance designating certain roads within its boundaries as truck routes and forbidding the use of other roads by certain types of trucks. Plaintiff sought to have the BCRC post

truck route signs along the designated routes or to permit the township to do so. By letter, dated June 5, 1978, BCRC denied the request on grounds that the McNitt Act and its successor, M.C.L. § 247.2; M.S.A. § 9.142, had transferred authority over township roads to the boards of county road commissioners. Defendant further contended that even if the township had authority to enact the ordinance, the ordinance enacted was arbitrary, capricious, beneficial only to a certain class of persons, and, accordingly, was void as being unreasonable.

On June 26, 1978, the township filed a declaratory judgment action against BCRC to compel the posting of the necessary truck route signs. The township moved for summary judgment on the issue of the township's authority to enact a truck route ordinance. Following submission of written arguments, the trial court held, in an opinion dated March 27, 1979, that the township did have legal authority to enact a reasonable truck route ordinance without first obtaining defendant's consent. However, the trial court then found that under authority of M.C.L. § 257.609(b); M.S.A. § 9.2309(b), which precludes local units of government from posting signs without permission of the board of road commissioners, the county might properly refuse to post signs for an unreasonable ordinance.

"The primary purpose of that Act is to assure uniformity in traffic signs and signals. This Court also believes that it is authority for the County Board of Road Commissions to reject enforcement of ordinances which are unreasonable, either by themselves or as they may relate to other townships by creating a 'chaotic patchwork quilt' of truck routes. By virtue of the constitutional grant of authority in Article 7, § 29 and case law, any ordinance enacted must be reasonable. *Fenton Gravel Company v. Village of Fenton*, 371 Mich. 358 [123 N.W.2d 763]. This Court therefore concludes that the County can refuse to post signals and signs for an unreasonable ordinance, but cannot make such refusal for a properly enacted, reasonable ordinance."

The case then proceeded to trial on the issue of the ordinance's reasonableness. In an opinion dated November 19, 1980, the trial court held that defendant BCRC had failed to sustain its burden of proof to overcome the presumption of validity attaching to enactments of local legislative bodies. Relying upon Michigan cases, the trial court found the ordinance reasonable. Both decisions are appealed by right.

I. *Does a township have the legal authority to enact a truck route ordinance without the consent of the board of county road commissioners?*

[1] In the trial court proceedings, plaintiff took the position that it could enact a truck route ordinance independently of BCRC and under no circumstances could the BCRC ever exercise a veto power or refuse to post signs. Conversely, at the trial level, defendant argued that the township could never legally enact such an ordinance without first obtaining defendant's approval. On appeal to this Court, plaintiff no longer disputes a finding that if the ordinance is unreasonable defendant may refuse to post the necessary signs, but defendant continues to contend that because of constitutional and statutory provisions, hereinafter referred to, a township may not enact a truck route ordinance without the prior approval of the BCRC. In effect, defendant argues that it possesses a veto power over a township ordinance regulating truck routes within township boundaries.

Resolution of the legal question raised depends upon construction of several apparently conflicting constitutional and statutory provisions.

A. Const.1963, art. 7, § 29, giving counties and townships reasonable control of their streets and highways.

"*Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.* (Emphasis added.)

B. The exception clause of art. 7, § 29 (indicated by the underlining above).

C. Const.1963, art. 7, § 16, stating that the Legislature may provide the powers and duties of counties (not townships) regarding highways.

"The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law." (Emphasis added.)

D. The McNitt Act and its successor, M.C.L. § 247.2; M.S.A. § 9.142. As originally enacted, this act read:

"On or before April first, nineteen hundred thirty-two, the board of county road commissioners in each of the several counties of the state shall take over and incorporate into the county road system, twenty per cent of the total township highway mileage so determined and fixed by the state highway commissioner in each township of their respective counties. Thereafter each such board of county road commissioners shall, on April first of each succeeding year, take over and incorporate into their county road system, an additional twenty per cent of such township highway mileage until the entire township highway mileage in all of the townships of each of such counties has been taken over and made a part of the county highway systems. In the year next following the taking over of all such highways all dedicated streets and alleys in recorded plats and outside of incorporated cities and villages shall be taken over and become county roads." 1931 P.A. 130, § 2.

E. Various statutes enacted or re-enacted since the McNitt Act giving townships powers over streets and highways: (1) M.C.L. § 41.181; M.S.A. § 5.45(1), giving a township the power to enact ordinances dealing with vehicular traffic; (2) M.C.L. § 257.606(1)(h); M.S.A. § 9.2306(1)(h), giving the township the power to regulate "streets or highways under the jurisdiction of the local authority * * * as provided in M.C.L. § 257.726; M.S.A. § 9.2426" which grants power to "local authorities and county road commissions * * * [to] prohibit the operation

of trucks or other commercial vehicles" within their jurisdiction; (3) M.C.L. § 257.951; M.S.A. § 9.2651, allowing a township to adopt by reference the Michigan Vehicle Code.

F. Section 609 of the Michigan Vehicle Code, M.C.L. § 257.609(b); M.S.A. § 9.2309(b), requiring county road commission consent to placing any traffic control device without the approval of the county road commission.

Plaintiff argues that the language italicized in A, plus the several statutes referred to in E, above, enable it to adopt an ordinance reasonably regulating truck routes sans the consent of defendant. Defendant contends that the exception clause in A, plus the language in C together with the McNitt Act and its successor act, and the statutory authority in F, above, preclude the township from adopting a truck control ordinance without first obtaining the approval of the board of county road commissioners. In addition, defendant argues that, on grounds of public policy of preventing a chaotic patchwork of conflicting township regulations, authority to establish truck routes falls exclusively to the county road commission.

Though the issue is admittedly close and of first impression, we find the better reasoning supports the decision of the trial court. Basically, defendant's argument rests on a literal reading of the McNitt Act and its successor. Read literally, there would be no township roads and, consequently, no authority in the township to control roads within township boundaries. Yet such an interpretation makes useless art. 7, § 29, providing that townships are to have reasonable control over their streets. Certainly, the delegates to the Constitutional Convention of 1963 would not have included the word "townships" in the last sentence of § 29, if, as claimed by defendant, jurisdiction had been lost under the McNitt Act in 1931.

Furthermore, there would be no reason for the Legislature to give townships statutory powers over streets and highways, as set forth in E above, had not the Legisla-

ture intended that, at least for some purposes, jurisdiction over its streets and roads remained with the township. This was the finding of the Supreme Court in *Union Twp. v. Mt. Pleasant*, 381 Mich. 82, 158 N.W.2d 905 (1968). There, the city wished to construct a water pipeline which would run through Union Township. Permission to run the pipeline had been obtained from the Isabella County Road Commission but not from the township. The Court, in ruling that the township's permission must be obtained, rejected the argument that there were no longer any township roads because of the McNitt Act.

"The city's contention is that, since implementation of the McNitt act, there no longer are any township roads as such, all township roads having been taken over by county road commissions and, therefore, that article 7, § 29 grants no power to the plaintiff township to approve or disapprove of defendant's pipeline construction wholly within the right-of-way of a road which is a county road and not any part of 'the highways, streets, alleys or other public places of [the] * * * township.'

"The township's contention, on the other hand, is that the McNitt act provided for the transfer from the townships to county road commissions of responsibility for laying out, construction, improvement and maintenance of township roads, but in all other respects, it is claimed, the roads remain subject to control by the township—for example, for regulation of their use by public utilities and by others for the conduct of businesses. The township reads article 7, § 29 as a reservation of such regulatory power to the townships in all such matters except as otherwise provided by the Constitution itself. Thus, the township argues that while its roads may now be county roads for some purposes, they still are township roads for other purposes including that of article 7, § 29's requirement of the township's con-

sent, as well as the county's, when any public utility seeks to use such roads for its facilities.

"It is our judgment that the township's interpretation of the Constitution is correct and that the legislature had so provided by sections 13 and 14 of PA 1925, No 368, even before adoption of our current Constitution." *Union Twp. supra*, 86-87, 158 N.W.2d 905. (Footnotes omitted.)

Although *Union Twp.* involved a question concerning the laying out of utility lines, as distinguished from the designation of truck routes, and to this extent is distinguishable from the instant case, the central objection that the McNitt Act divested the township of *all* control over its streets is the same in both cases.¹ We agree with *Union Twp.* that the McNitt Act transferred to the county road commission the "responsibility for laying out, construction, improvement, and maintenance of township roads", but in other respects, such as weight limits, designation of truck routes and related traffic control matters, control remains with the township. Our conclusion in this respect is supported by Attorney General's Opinion No. 5307 issued May 18, 1978.²

"Considering these authorities, it is my opinion that, subject to the limitations noted herein, Const.1963, art. 7, § 29 when read together with Const.1963, art. 5, § 28 guarantees to local units of government the right to reasonable control over highways and streets, including state trunkline highways, within their municipal boundaries. Local units of government are, therefore, free to enact ordinances restricting commercial vehicles, such as double tandem tankers, to certain routes; they may also impose weight limitations thereon and require that certain types of cargoes be covered." *Id.*, 450.

Nor can we agree with defendant that § 609(b) of the Michigan Vehicle Code,

"[e]xcept as otherwise provided in this constitution" at the beginning of the second sentence in art. 7, § 29.

1. *Union Twp.*, involved an interpretation of art. 8, § 28 of the Constitution of 1908. With some minor changes in wording that section is now art. 7, § 29 of the Constitution of 1963. The principal change is the addition of the words

2. OAG 1977-1978, p. 448.

M.C.L. § 257.609(b); M.S.A. § 9.2309(b),³ precludes a township from designating truck routes. We grant that, as a practical matter, signing is required. However, as a legal matter, the county road commission may not unreasonably withhold its permission. Where, as here, the consent of two units of government is required, neither unit may refuse arbitrarily or unreasonably. As was stated in *Union Twp., supra*, 90, 158 N.W.2d 905.

"That on occasion there may be conflict between the county and township when the consent of both is sought, we do not doubt. However, *consent of neither can be refused arbitrarily and unreasonably* and we are not inclined to believe that such refusal need be anticipated." (Emphasis supplied.)

Further, by the use of the word "shall", § 610 of the Michigan Vehicle Code, the section immediately following § 609, *supra*, places an affirmative duty on county road commissions to place and maintain traffic control devices "necessary" to carry out the provisions of local ordinances.

In arriving at our decision that a township may regulate truck traffic within the township's boundaries without the prior consent of the county road commission, we are not unmindful that, upon grounds of public policy, consent of the county road commission would be advisable. We agree that if several townships each designate noncontiguous routes a "chaotic patchwork" will ensue. But this claim goes to the reasonableness of the ordinance rather than to the jurisdictional right to enact the ordinance. The trial court itself took cognizance of this claim when it stated that "if incompatible ordinances were adopted by surrounding townships, the truck route adopted by Robinson Township could become unreasonable".

Further, nothing in the transcript indicates that any other township contemplated adopting a truck route ordinance. Robinson Township's supervisor testified that if

an abutting township should consider enacting such an ordinance, plaintiff township would cooperate to design one and that, before adopting the ordinance in dispute, Robinson Township invited adjoining townships to participate in the selection of a uniform route. Hence, we are not persuaded that on the facts in this case "chaos" will result. As the trial judge so aptly observed, the court must deal with the facts as they exist and not speculate on what the facts might become.

Accordingly, we find that Robinson Township had the legal authority to enact the ordinance in question without the consent of the board of county road commissioners and further find that defendant may not refuse to post signs required to make the ordinance work effectively, unless the ordinance is unreasonable.

II. *Did the trial court err in finding the truck route ordinance reasonable?*

[2] A party challenging an ordinance regulating truck routes has the burden of showing that the ordinance is unreasonable. *Fenton Gravel Co., Inc. v. Village of Fenton*, 371 Mich. 358, 366, 123 N.W.2d 763 (1963). See generally, 7 McQuillin, *Municipal Corporations* (3d ed), § 24.616, p. 668, 3 Callaghan's *Michigan Pleading and Practice* (2d ed), § 36.178, p. 653. In the trial court's opinion, defendant failed to establish that the ordinance was unreasonable. Legislation must bear a reasonable relation to a permissible legislative objective. *O'Brien v. Hazelet & Erdal*, 410 Mich. 1, 13-14, 299 N.W.2d 336 (1980). It is clear that plaintiff has the power to enact a truck route ordinance, a permissible legislative objective. *Fenton Gravel Co., Inc., supra*.

[3] The primary industry of Robinson Township is production of sand and gravel in the northeast corner of the township. Until 1976, most of the sand and gravel mined therein was shipped by barge on the Grand River which flows along the north-

3. "(b) No local authority shall place or maintain any traffic-control device upon any trunk line highway under the jurisdiction of the state highway commissioner except by the latter's

permission or upon any county road without the permission of the county road commission having jurisdiction thereof."

ern border of the township. Commencing in 1976, barge traffic ceased and sand and gravel was transported out of the township by double-bottom trucks primarily using the Cedar/Green connector which runs westerly along the northerly portion of the township, crossing the Stearns Bayou bridge and connecting with 144th Avenue on the west border of the township. In response to citizen complaints in the Stearns Bayou area concerning noise, dust, and danger to school children, Robinson Township enacted the proposed ordinance which precluded trucks from using the Cedar/Green connector. Instead, truck traffic was diverted south along 104th Avenue to its intersection with M-45, thence west on M-45 to 144th Street, thence northerly out of the township, or alternately, westerly on M-45 to its intersection with US-31. As noted by the trial court, requiring trucks to follow the proposed route adds approximately 12 miles per round trip, or six miles one way.

Defendant contends that the ordinance is unreasonable because: (1) It requires defendant's single-bottom trucks to travel an additional 75,000 miles a year at a cost in terms of labor and truck costs of \$42,770 a year plus 25,000 gallons of fuel; (2) While eliminating truck traffic from one residential area of the township, it diverts it through two other residential areas; (3) Cedar/Green connector, constructionwise, is capable of carrying trucks and is wider and safer than parts of the other designated roads; (4) The trial court relied excessively on the testimony of plaintiff's sole expert witness whose qualifications and opinions are suspect; (5) The failure to include pickup trucks and vans within the ordinance constitutes discriminatory class legislation; (6) 144th and 96th Avenues possessed potential for a patchwork quilt system.

We have carefully reviewed the excellent and comprehensive briefs of the parties, have examined the testimony at trial, and have studied the several maps and exhibits. Having done so, we are not persuaded that

4. Increased costs to the private haulers would be even higher. In 1978, 90% of the total tonnage of 836,000 tons moved out of the township over the Cedar/Green connector. The additional annual cost to Verplank's Coal & Dock

the ordinance was not a reasonable response to local and peculiar concerns in the township. *People v. McGraw*, 184 Mich. 233, 238, 150 N.W. 836 (1915); *Fenton Gravel Co., supra*, 371 Mich. 366, 123 N.W.2d 763.

Increased truck hauling costs of 28 cents per ton caused by adding 5.7 miles to the normal traveled route did not make the ordinance unreasonable in *Fenton Gravel*, 360, 123 N.W.2d 763. Furthermore, cross-examination exposed deficiencies in the methodology used by defendant in preparing such cost comparisons. The primary recreational areas in the township lie on the east end of Cedar Drive and at the Stearns Bayou. Diverting truck traffic southward and westward had the advantage of eliminating such traffic from one residential area as well as two recreational areas. Though Cedar/Green was well paved and capable of carrying trucks, we find no requirement that a proposed route include every road capable of carrying trucks. Furthermore, the new route utilized M-45, a state highway much more adapted to carrying heavy vehicle traffic than Cedar/Green.

Though there were deficiencies in the testimony of Dr. Cleveland, plaintiff's expert witness, there were equal deficiencies in the testimony of Dr. Koert, defendant's principal expert witness. At one point, Dr. Koert conceded that reasonable men might reasonably come to different conclusions as to proposed truck routes. The trial judge, who had the advantage of observing the witnesses, is in a better position to give the testimony of one more weight than the other. The ordinance's classification which excludes vans and pickup trucks is not discriminatory. Neither in size nor number, nor in the quantity of noise and dust created, did such vehicles constitute a local problem. Therefore, their exclusion recognized reality and had a reasonable basis. *O'Brien v. Hazelet & Erdal, supra*, 410 Mich. 18, fn. 23, 299 N.W.2d 336. Defendant's claim that

Co., a principal hauler for Construction Aggregates, is estimated to be \$199,000 from the Bass River pit and \$424,000 from the Clark Farm pit. Defendant claims these costs will be passed on to the consumer.

the proposed route has the *potential* for a patchwork quilt system was answered earlier in this opinion. As we then stated, the court must deal with facts as they exist rather than on what they might become. No testimony was presented that any adjoining township was contemplating a truck route ordinance.

In short, we are not persuaded that the defendant has carried the burden of showing that the challenged ordinance is unreasonable. To the contrary, we find it to be a reasonable response to a local and peculiar condition.

Affirmed. No costs, a question of public importance being involved.



George H. BAILEY, Charles C. Dybvig,
John H. Leevee, Francis C. McMath, and
Von Polhemus, Plaintiffs-Appellants,

v.

CHARTER TOWNSHIP OF PONTIAC,
and Charter Township of Waterford,
Defendants-Appellees.

Docket No. 55549.

Court of Appeals of Michigan.

Submitted Nov. 9, 1981.

Decided March 19, 1982.

Released for Publication May 28, 1982.

Actions were brought seeking declaratory judgment that taxes levied by defendant townships were illegal and seeking injunctive relief. The Circuit Court, Oakland County, Robert B. Webster, J., granted defendants' motion for summary judgment concluding that the statute was unconstitutional and the claimants appealed. The Court of Appeals held that statute precluding township from taxing property within village limits at rate in excess of one mill but allowing taxing of other property within its borders at five mills did not violate uniformity clause of Constitution.

Reversed and remanded.

1. Taxation ⇔ 42(1)

Ordinarily all property within taxing authority must be taxed at same rate, but uniformity clause of Constitution does not prevent legislature from establishing reasonable classifications within particular taxing authority for purpose and effect of such classification is promotion of more equitable distribution of tax burden. M.C.L.A. § 42-27; M.C.L.A.Const.Art. 9, § 3.

2. Taxation ⇔ 43

Purpose of uniformity clause of Constitution is to ensure that taxes are imposed in proportion to benefits received by mandating uniform taxation within particular taxing authority and that purpose is not frustrated by legislative recognition of inequity resulting from taxation of property which is also located within another taxing authority at same rate as property not so located. M.C.L.A. § 42.27; M.C.L.A.Const. Art. 9, § 3.

3. Taxation ⇔ 43

Statute precluding township from taxing property within village limits at rate in excess of one mill but allowing taxing of other property within its borders at five mills did not violate uniformity clause of Constitution. M.C.L.A. § 42.27; M.C.L.A. Const.Art. 9, § 3.

Beier, Howlett, McConnell, Googasian & McCann, Bloomfield Hills, for plaintiffs-appellants.

Davidson, Gotshall, Kohl, Secrest, Wardle, Lynch & Clark by William P. Hampton, Farmington Hills, for Charter Township of Pontiac.

Peter J. Donlin, Pontiac, for Charter Township of Waterford.

Before MAHER, P. J., and WALSH and RILEY, JJ.

PER CURIAM.

Plaintiffs filed suit in Oakland County Circuit Court, seeking (1) a declaratory judgment that certain taxes levied by the defendant townships were illegal under

302 Mich.App. 574

OSITEMO CHARTER TOWNSHIP

v.

**KALAMAZOO COUNTY ROAD
COMMISSION.**

Docket No. 304986.

Court of Appeals of Michigan.

Decided Oct. 1, 2013.

Background: Township brought action challenging decision of county road commission declaring township's truck route ordinance void, seeking declaratory relief and a preliminary injunction. Township's request for a preliminary injunction was granted, and commission appealed. The Court of Appeals, 288 Mich.App. 296, 792 N.W.2d 401, vacated and remanded. On remand, the Circuit Court, Kalamazoo County, Alexander C. Lipsey, J., granted summary disposition in favor of commission. Township appealed.

Holdings: On reconsideration, the Court of Appeals held that:

- (1) township truck route ordinance did not conflict with state law, either directly or by conflicting with rule promulgated by agency, and
- (2) statute permitting county road commission to void a township truck route ordinance was unconstitutional as applied to a reasonable township traffic control ordinance.

Reversed and remanded.

1. Declaratory Judgment ⇨393

Court of Appeals reviews de novo the trial court's decision to grant or deny a motion for summary disposition in an action for a declaratory judgment.

2. Automobiles ⇨7

Township had private right that was affected by county road commission's deci-

sion voiding township's traffic control ordinance, and thus township could seek judicial review of commission's decision under state constitutional provision governing review of administrative action affecting private rights or licenses; state constitution had reserved to township the specific right to reasonable control of roads. M.C.L.A. Const. Arts. 6, § 28, 7, § 29.

3. Administrative Law and Procedure
⇨665.1

A "private right," for purposes of entitlement to judicial review of an administrative decision, is a personal right, as opposed to the right of the public or the state. M.C.L.A. Const. Art. 6, § 28.

See publication Words and Phrases for other judicial constructions and definitions.

4. Municipal Corporations ⇨1017

Local governments may protect their specifically reserved constitutional rights on behalf of the public they represent.

5. Administrative Law and Procedure
⇨763

When an agency makes a decision without a contested case hearing, the trial court must review the agency's or officer's decision to determine whether the decision was authorized by law. M.C.L.A. Const. Art. 6, § 28.

6. Administrative Law and Procedure
⇨741

An agency's decision is not authorized by law if it violates a statute or constitution, exceeds the statutory authority or jurisdiction of the agency, is made after unlawful procedures that result in material prejudice, or is arbitrary and capricious. M.C.L.A. Const. Art. 6, § 28.

7. Administrative Law and Procedure
⇨431, 783

Reviewing courts, including trial courts reviewing an agency's decision, re-

view de novo issues of constitutional law and statutory construction.

8. Administrative Law and Procedure ⇨305

Agencies do not have any inherent authority.

9. Administrative Law and Procedure ⇨305

An agency is limited in power and authority by its statutory enactment.

10. Administrative Law and Procedure ⇨305

Agencies are only allowed the powers that the legislature chooses to delegate to them through statute.

11. Municipal Corporations ⇨57

Townships possess only those powers that are expressly granted by or fairly implied from the state constitution or actions of the legislature.

12. Automobiles ⇨5(1)

Highways ⇨165

Both townships and county road commissions have constitutional authority to exercise reasonable control of highways; thus, neither has exclusive control. M.C.L.A. Const. Art. 7, §§ 16, 29.

13. Municipal Corporations ⇨56

Constitutional and statutory provisions which grant power to municipalities are to be liberally construed.

14. Municipal Corporations ⇨592(1)

A local government may exercise reasonable control to regulate matters of local concern, but only in a manner and to the degree that the regulation does not conflict with state law. M.C.L.A. Const. Art. 7, § 22.

15. Automobiles ⇨9

Township ordinance that prohibited heavy trucks on specified routes did not

conflict with state law, either directly or by conflicting with rule promulgated by agency; ordinance did not violate statute governing regulation of highways by local authorities, since that statute directly allowed township to pass an ordinance regulating truck routes, and county road commission did not have authority to promulgate rules. M.C.L.A. Const. Art. 7, § 22; M.C.L.A. § 257.726.

16. Municipal Corporations ⇨111(2)

An ordinance conflicts with state law when it directly conflicts with a statute.

17. Municipal Corporations ⇨111(2)

An ordinance conflicts with state law if it conflicts with a validly promulgated rule of an administrative agency.

18. Highways ⇨95(1)

Legislature has not conferred the authority to promulgate rules on local road commissions, and thus county road commissions, despite being administrative agencies, do not have authority to promulgate rules.

19. Automobiles ⇨9

Statute that permits a county road commission to void a township ordinance regulating truck routes is unconstitutional as applied to a reasonable township traffic control ordinance; authority that the statute purports to grant conflicts with state constitutional provision granting townships the right to exercise reasonable control of its streets and roads. M.C.L.A. Const. Art. 7, § 29; M.C.L.A. § 257.726(3).

20. Constitutional Law ⇨655

When a statute contravenes the provisions of the state constitution it is unconstitutional and void.

21. Constitutional Law ⇨2406, 2408

The legislature may delegate to an administrative body the power to make rules and decide particular cases.

22. Constitutional Law ⇨2106, 2408

Delegations of legislative authority include delegations of rulemaking authority and referral statutes, which allow an agency to determine whether a fact has occurred that triggers the statute's operation.

23. Constitutional Law ⇨2407

In a delegation of legislative power to an agency, a complete lack of standards is constitutionally impermissible.

West Codenotes

Unconstitutional as Applied

M.C.L.A. § 257.726(3)

Fahey Schultz Burzyeh Rhodes PLC, Okemos, (by William K. Fahey and Stephen J. Rhoades) and James W. Porter, P.C. (by James W. Porter), for Oshtemo Charter Township.

Smith Haughey Rice & Roegge, Grand Rapids, (by Jon D. Vander Ploeg and Karl W. Butterer, Jr.), Lewis Reed & Allen, P.C. (by Stephen Denefeld), and Henn Lesperance PLC (by William L. Henn) for the Kalamazoo County Road Commission.

Ford, Kriekard, Soltis & Wise, P.C., Portage, (by Robert A. Soltis), for Alamo Township.

Bauckham, Sparks, Lohrstorfer, Thall & Seeber, P.C., Kalamazoo, (by Kenneth C. Sparks), for Kalamazoo Charter Township.

Before: SERVITTO, P.J., and
WHITBECK and SHAPIRO, JJ.

ON RECONSIDERATION

PER CURIAM.

Plaintiff Oshtemo Charter Township (Oshtemo Township) appeals as of right the circuit court's order granting summary disposition under MCR 2.116(C)(10) in favor of defendants Kalamazoo County Road Commission (the Road Commission), Alamo Township (Alamo Township), and Kalamazoo Charter Township (Kalamazoo Township) on Oshtemo Township's claim that the Road Commission's decision to void an Oshtemo Township truck route ordinance under the authority of MCL 257.726(3) was invalid. We reverse and remand.

I. OVERVIEW

Article 7, § 29 of the Michigan Constitution reserves to counties, townships, cities, and villages the right to reasonable control of the traffic within their boundaries. In MCL 257.726(1), the Michigan Legislature has provided that townships may adopt truck route ordinances, and in MCL 257.726(3), the Legislature has purported to grant local road commissions the authority to "approve or void" those ordinances.

We conclude that a township does not have the authority to adopt any ordinance that conflicts with state law. An ordinance can conflict with state law by conflicting with the rules of an administrative agency. But county road commissions, despite being administrative agencies, do not have the authority to promulgate rules. A truck route ordinance does not conflict with state law either directly or through the operation of an administrative agency under MCL 257.726(3). Because a reasonable truck route ordinance does not conflict with state law, a township has the authority to adopt one.

We also conclude that the Legislature may not override a power provided in the Constitution. Therefore, to the extent MCL 257.726(3) allows a county road commission to void a traffic control ordinance without demonstrating that the ordinance is unreasonable, it conflicts with the Michigan Constitution's grant of the power to townships to adopt reasonable traffic control ordinances, and is unconstitutional as applied.

The Road Commission only has the authority to void an unreasonable traffic control ordinance. Because the Road Commission did not determine that the ordinance was unreasonable, the Road Commission's decision was contrary to the Michigan Constitution, and thus it was not authorized by law. Because the trial court improperly determined that the decision was authorized by law, we reverse and remand.

II. FACTS

A. OSHTEMO TOWNSHIP'S TRUCK ROUTE ORDINANCE

MCL 257.726(1) allows local authorities to pass an ordinance that prohibits trucks on specified routes. In March 2007, Oshtemo Township passed its Truck Route Ordinance, which prohibits heavy trucks from traveling on (1) 10th Street between both G and H Avenues, (2) 10th Street between West Main Street and G Avenue, (3) 9th Street between West Main Street and H Avenue, and (4) H Avenue between 9th Street and Drake Road (collectively, the prohibited routes).¹ The prohibited routes are all county primary roads.

1. Oshtemo Township Ordinances, §§ 153.005 and 153.006.

2. 2008 PA 539.

B. OBJECTIONS TO THE TRUCK ROUTE ORDINANCE

Effective January 13, 2009, the Legislature amended MCL 257.726, adding subdivision (3).² MCL 257.726(3) allows a township to object to an adjoining township's truck route ordinance and provides that the county road commission will resolve the objection if the townships fail to resolve it.³ In February 2009, Kalamazoo Township and Alamo Township challenged Oshtemo Township's truck route ordinance.

On May 21, 2009, after the parties failed to resolve the dispute, the Road Commission determined that the prohibited routes were primary roads and voided the ordinance. On June 4, 2009, Oshtemo Township filed in the Kalamazoo Circuit Court a claim of appeal and a complaint against the Road Commission, Alamo Township, and Kalamazoo Township, seeking a preliminary injunction and declaratory relief. Oshtemo Township asserted in pertinent part that (1) MCL 257.726(3) did not apply to the ordinance, (2) MCL 257.726(3) conflicts with Const 1963, art 7, § 22 and, because Oshtemo Township's ordinance was reasonable, the Road Commission improperly voided it, (3) MCL 257.726(3) unlawfully delegates authority to the Road Commission, and (4) MCL 257.726(3) does not contain adequate governing standards.

In June 2009, the trial court granted Oshtemo Township's request for a preliminary injunction on the basis that MCL 257.726(3) did not apply to the prohibited routes because there were no truck routes designated under the statutes to which MCL 257.726(3) refers. In April 2010, this Court determined that the mistaken reference was a scrivener's error, and remand-

3. MCL 257.726(3).

ed the case to the circuit court for further consideration.⁴

C. OSHTEMO TOWNSHIP'S
TRAFFIC CONTROL
ORDER

On March 9, 2010, while this Court's decision concerning the preliminary injunction was pending, Oshtemo Township appointed James J. Valenta as its traffic engineer pursuant to the Michigan State Police's Uniform Traffic Code for Cities, Townships, and Villages, which Oshtemo Township had adopted in September 2003.⁵ Valenta issued a traffic control order on April 13, 2010, under Rule 28.1151 of the Uniform Traffic Code. The traffic control order contained a truck route map, designated specific roadways as truck routes, and prohibited commercial truck traffic from "all other roadways in the township. . . ." On April 13, 2010, Oshtemo Township adopted the traffic control order by resolution.

Kalamazoo Township and Alamo Township challenged the traffic control order on the same grounds that they had challenged the ordinance, and argued that the Road Commission resolution voiding the ordinance also voided the traffic control order.

D. THE TRIAL COURT'S RULINGS

After this Court's remand, the Road Commission renewed its motion for summary disposition. In March 2011, the trial court heard oral argument concerning the validity of the traffic control order. The trial court determined that the traffic control order fell within the purview of MCL 257.726, and determined that MCL

257.726(3) gave the Road Commission the authority to resolve any conflict concerning the "respective rights and responsibilities of the various townships in relation to one another as to the appropriateness of particular traffic patterns." The trial court determined that the Road Commission's previous determination to void the ordinance also voided the traffic control order. The trial court ultimately concluded that MCL 257.726(3) was constitutional, and granted summary disposition in the Road Commission's favor concerning the traffic control order.

The trial court heard oral argument on April 18, 2011, concerning the Road Commission's decision to void the ordinance. The Road Commission contended that the "shall be final" language of MCL 257.726(3) precluded judicial review of its decision or, in the alternative, that the trial court could only review the decision for an abuse of discretion. Oshtemo Township argued that the trial court must at the least determine whether the Road Commission's decision was reasonable and whether it was authorized by law. Oshtemo Township argued that under these standards, the decision by the Road Commission conflicted with the Michigan Constitution's protection of a township's reasonable control over its roads, and that the burden was on the Road Commission to show that Oshtemo Township's decision was unreasonable.

The trial court found that MCL 257.726(3) was constitutional, and that the Road Commission was authorized to review and void the truck route ordinance. It determined that the statute, "in essence,

4. *Oshuemo Charter Twp. v. Kalamazoo Co. Rd. Comm.*, 288 Mich.App. 296, 792 N.W.2d 401 (2010) (The statute states that for purposes of MCL 257.726(3), "county primary road" means "a highway or street designated as a county primary road pursuant to 1951 PA 51,

MCL 247.671 to 247.675." Under the scrivener's error doctrine, we construed the phrase "MCL 247.671 to 247.675" as "MCL 247.651 to 247.675.").

5. See MCL 257.951.

provide[s] the County Road Commission with the authority to arbitrate . . . the dispute.” It opined that it had to review the Road Commission’s decision to void Oshtemo Township’s ordinance for an abuse of discretion, and found that the Road Commission did not abuse its discretion when it voided Oshtemo Township’s ordinance. Accordingly, the trial court granted summary disposition on the majority of Oshtemo Township’s claims. On June 22, 2010, the parties dismissed Oshtemo Township’s remaining claim by stipulation. Oshtemo Township now appeals.

III. STANDARDS OF REVIEW ON APPEAL

[1] This Court reviews de novo the trial court’s decision to grant or deny a motion for summary disposition in an action for a declaratory judgment.⁶ A party is entitled to summary disposition under MCR 2.116(C)(10) if “there is no genuine issue as to any material fact, and the moving party is entitled to judgment . . . as a matter of law.”⁷ This Court reviews de novo issues of constitutional law.⁸

IV. THE TRIAL COURT’S REVIEW

A. OSHTEMO TOWNSHIP’S RIGHT TO JUDICIAL REVIEW

Article 6, Section 28 of the Michigan Constitution provides that

[a]ll final decisions, findings, rulings and orders of any administrative officer or

agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law. . . .⁹

[2–4] Alamo Township contends that Oshtemo Township has no right to claim an appeal under this constitutional provision because Oshtemo Township, as a public entity, has no “private rights or licenses.” A private right is “a personal right, as opposed to the right of the public or the state.”¹⁰ Local governments may protect their specifically reserved constitutional rights on behalf of the public they represent.¹¹ As we will discuss, the Michigan Constitution has reserved to local governments the specific right at issue in this appeal—reasonable control of roads. Accordingly, we reject Alamo Township’s argument that Oshtemo Township had no private right that the Road Commission’s decision might affect.

B. STANDARDS OF REVIEW IN THE TRIAL COURT

[5–7] When an agency makes a decision without a contested case hearing, the trial court must review the agency’s or officer’s decision to determine whether the decision was authorized by law.¹² An

6. *Lansing Sch. Ed. Ass’n v. Lansing Bd. of Ed. (Or Remand)*, 293 Mich.App. 506, 512–513, 810 N.W.2d 95 (2011).

7. See also *Maiden v. Rozwood*, 461 Mich. 109, 120, 597 N.W.2d 817 (1999).

8. *Harvey v. Michigan*, 469 Mich. 1, 6, 664 N.W.2d 767 (2003).

9. Const. 1963, art 6, § 28.

10. *Midland Cogeneration Venture LP v. Naftaly*, 489 Mich. 83, 93, 803 N.W.2d 674 (2011), quoting Black’s Law Dictionary (8th ed.), p. 1348.

11. See, e.g., *Oakland Co. v. Michigan*, 456 Mich. 144, 167, 566 N.W.2d 616 (1997) (concerning standing).

12. Const. 1963, art 6, § 28; *Ross v. Blue Care Network of Mich.*, 480 Mich. 153, 164, 747 N.W.2d 828 (2008).

agency's decision is not authorized by law if it violates a statute or constitution, exceeds the statutory authority or jurisdiction of the agency, is made after unlawful procedures that result in material prejudice, or is arbitrary and capricious.¹³ Courts—including trial courts reviewing an agency's decision—review de novo issues of constitutional law and statutory construction.¹⁴

C. APPLYING THE STANDARDS

To the extent that the trial court determined that it could review the Road Commission's decision to void the ordinance for an abuse of discretion, it may have erred. The Road Commission did not hold a contested case hearing, and MCL 257.726 does not require one. Thus, the trial court should only have determined whether the Road Commission's decision was authorized by law. However, the trial court's possible application of an incorrect standard, when the case hinges on whether the agency's decision was authorized by law, was a harmless error.

In this case, Oshtemo Township filed both a claim of appeal and an action for a declaratory judgment. The trial court found that the Road Commission was not barred from voiding the ordinance by article 7, § 29 of the Michigan Constitution of 1963, that the Road Commission's action was authorized by MCL 257.726(3), that the Road Commission's decision was not arbitrary and capricious, and that the

Road Commission did not act with bias. The trial court indicated that it was taking its guidance from other cases. Those cases clearly indicate that the trial court reviews these issues under a de novo standard. Thus, we are not convinced that the trial court applied an improperly deferential standard—much less an abuse of discretion standard—to its determination that the agency's decision was authorized by law. In any event, we conclude that any application of an incorrect standard by the trial court in reviewing the Road Commission decision to void Oshtemo Township's ordinance was harmless.

V. MCL 257.726(3) conflicts with ARTICLE 7, § 29 OF MICHIGAN'S CONSTITUTION

A. LEGAL BACKGROUND

[8–10] Agencies—such as county road commissions—do not have any inherent authority. An agency is limited in power and authority by its statutory enactment.¹⁵ Agencies “are only allowed the powers that the Legislature chooses to delegate to them through statute.”¹⁶

[11, 12] Somewhat similarly, townships possess only those powers that are expressly granted by or fairly implied from the Michigan Constitution or actions of the Legislature.¹⁷ Local control over roads is one of the powers that the Michigan Constitution specifically grants to townships:¹⁸ “Except as otherwise provided in this constitution the right of all counties, town-

13. *Northwestern Nat'l. Cas. Co. v. Ins. Comm'r.*, 231 Mich.App. 483, 488, 586 N.W.2d 563 (1998).

14. *City of Taylor v. Detroit Edison Co.*, 475 Mich. 109, 115, 715 N.W.2d 28 (2006); *In re Complaint of Roxas Against SBC Mich.*, 482 Mich. 90, 102, 754 N.W.2d 259 (2008).

15. *People v. Idziak*, 484 Mich. 549, 584, 773 N.W.2d 616 (2009).

16. *Herrick Dist. Library v. Library of Mich.*, 293 Mich.App. 571, 582, 810 N.W.2d 110 (2011).

17. *Hanselman v. Wayne Co. Concealed Weapon Licensing Bd.*, 419 Mich. 168, 187, 351 N.W.2d 544 (1984); *City of Taylor*, 475 Mich. at 115, 715 N.W.2d 28.

18. *City of Taylor*, 475 Mich. at 116, 715 N.W.2d 28.

ships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.”¹⁹ Both townships and county road commissions have constitutional authority to exercise reasonable control of highways.²⁰ Thus, neither has exclusive control.²¹ “[F]or some purposes, jurisdiction over its streets and roads remain[s] with the township.”²² For instance, a township does not need to obtain prior consent from a county road commission to enact an ordinance regulating truck traffic in the township.²³

However, this Court has recognized that “if several townships each designate non-contiguous routes a ‘chaotic patchwork’ will ensue” that may render certain township ordinances unreasonable.²⁴ The Legislature has granted county road commissions the following authority in MCL 257.726(3):

If a township has established any prohibition or limitation under [MCL 257.726(1)] on any county primary road that an adjoining township determines diverts traffic onto a border highway or street shared by the township and the adjoining township, the adjoining township may submit a written objection to the county road commission having jurisdiction over the county primary road, along with a copy to the township that established the prohibition or limitation, on or before the later of March 1, 2009, or 60 days after the township approves the prohibition or limitation. The writ-

ten objection shall explain how the prohibition or limitation diverts traffic onto the border highway or street shared by the township and the adjoining township. The county road commission shall then investigate the objection. The township and adjoining township shall cooperate with that investigation and negotiate in good faith to resolve the objection. If the objection is not resolved within 60 days after the township receives the copy of the written objection, the county road commission has the authority to, and shall, either approve or void the prohibition or limitation that is the subject of the objection within 60 days thereafter, which decision shall be final. For purposes of this subsection, “county primary road” means a highway or street designated as a county primary road pursuant to 1951 PA 51, MCL 247.6[5]1 to 247.675.⁽²⁵⁾

B. APPLICATION

1. THE PARTIES’ CONTENTIONS

Alamo Township contends that the Legislature appears to have designed this statute to address the potential “chaotic patchwork” problem that this Court recognized in *Robinson Twp. v. Ottawa Co. Bd. of Rd. Comm’rs*.²⁶ Oshtemo Township contends that the Legislature’s attempt to address the problem, as written, conflicts with Const. 1963, art 7, § 29, and because the Michigan Legislature cannot override the

19. Const. 1963, art 7, § 29.

20. Const. 1963, art 7, § 29; Const. 1963, art 7, § 16. See also *Turner v. Washtenaw Co. Rd. Comm.*, 437 Mich. 35, 36, 467 N.W.2d 4 (1991).

21. See *Robinson Twp. v. Ottawa Co. Bd. of Rd. Comm’rs*, 114 Mich.App. 405, 411-412, 319 N.W.2d 589 (1982).

22. *Id.* at 412, 319 N.W.2d 589.

23. *Id.* at 414, 319 N.W.2d 589.

24. *Id.* at 414-415, 319 N.W.2d 589.

25. See *Oshtemo Charter Twp.*, 288 Mich.App. at 304, 792 N.W.2d 401.

26. *Robinson Twp.*, 114 Mich.App. at 414, 319 N.W.2d 589.

Michigan Constitution, the Road Commission's decision to void Oshtemo Township's ordinance under that statutory provision was not authorized by law.

Kalamazoo Township contends in its brief on appeal that the Road Commission's decision properly voided Oshtemo Township's ordinance because the ordinance—after the Road Commission's decision—was contrary to state law. However, Kalamazoo Township conceded at oral argument that the ordinance was not, on its face, contrary to state law. Because of the importance of this issue to Oshtemo Township's authority to enact its ordinance, we will briefly explain why Oshtemo Township's ordinance does not conflict with state law.

2. ORDINANCES MUST COMPLY WITH STATE LAW

[13, 14] “Michigan is strongly committed to the concept of home rule, and constitutional and statutory provisions which grant power to municipalities are to be liberally construed.”²⁷ But Const. 1963, art 7, § 29—which reserves certain authority to local governments—is explicitly subject to other constitutional provisions, including Const. 1963, art 7, § 22.²⁸ Const. 1963, art 7, § 22 “empowers cities and villages ‘to adopt resolutions and ordinances relating to its municipal concerns, property and government, *subject to the constitution and law.*’”²⁹ The Michigan Supreme Court has interpreted this constitutional grant of authority to mean that a township retains control of its highways

and may pass ordinances related to them, as long as those ordinances “do not contravene the State laws.”³⁰ Thus, a local government may “exercise ‘reasonable control’ to regulate matters of local concern, but only in a manner and to the degree that the regulation does not conflict with state law.”³¹

Const. 1963, art 7, § 29, reserving to local units of government reasonable control over their highways, only empowers a township to enact an ordinance that does not conflict with state law. Therefore, if Oshtemo Township's ordinance conflicts with state law, then Oshtemo Township simply does not have authority to enact its ordinance.

3. OSHTEMO TOWNSHIP'S ORDINANCE DOES NOT CONFLICT WITH STATE LAW

[15] An ordinance may conflict with state law in several fashions. Pertinent to this case, Oshtemo Township's ordinance could conflict with state law by conflicting with MCL 257.726(3) directly, or by conflicting with an agency's interpretation of state law. We conclude that Oshtemo Township's ordinance does not conflict with state law in either of these two fashions.

[16] Obviously, an ordinance conflicts with state law when it directly conflicts with a statute.³² In this case, Oshtemo Township's ordinance does not directly conflict with MCL 257.726, as subdivision (1) directly allows Oshtemo Township to pass an ordinance regulating truck routes.

27. *Bivens v. Grand Rapids*, 443 Mich. 391, 400, 505 N.W.2d 239 (1993).

28. *City of Taylor*, 475 Mich. at 116, 715 N.W.2d 28.

29. *Id.*, quoting Const. 1963, art 7, § 22 (emphasis altered).

30. *Fenton Gravel Co. v. Village of Fenton*, 371 Mich. 358, 362, 123 N.W.2d 763 (1963), quot-

ing *People v. McGraw*, 184 Mich. 233, 238, 150 N.W. 836 (1915) (emphasis omitted).

31. *City of Taylor*, 475 Mich. at 117–118, 715 N.W.2d 28.

32. *Fenton Gravel Co.*, 371 Mich. at 363, 123 N.W.2d 763.

Nor does it conflict on its face with subdivision (3), which provides that the county road commission may approve or void such an ordinance.

[17] An ordinance also conflicts with state law if it conflicts with a validly promulgated rule of an administrative agency.³³ In *City of Taylor v. Detroit Edison Co.*, for example, the Legislature had granted the Michigan Public Service Commission authority to promulgate rules to enforce, among other things, the placement of utility wires.³⁴ The commission promulgated rules that possibly conflicted with the City of Taylor's preexisting ordinance.³⁵ The commission argued that the City of Taylor's ordinance was required to yield to the commission's rules if they indeed conflicted.³⁶

The Michigan Supreme Court held that, to the extent that the Taylor ordinance conflicted with the commission's rules, the ordinance might not be valid because it conflicted with state law.³⁷ In reaching its decision, the Court stated that the cases supporting the City of Taylor's position "were decided before the [commission's] promulgation of rules regarding the underground relocation of wires. Thus, there was no state law for the municipal action to conflict with."³⁸ The Michigan Supreme Court's decision in *City of Taylor* clearly hinged on the commission's authority, delegated to it by the Legislature, to promulgate rules that then became state law.

33. See *City of Taylor*, 475 Mich. at 123-124, 715 N.W.2d 28.

34. *Id.* at 118, 715 N.W.2d 28.

35. *Id.*

36. *Id.* at 119, 715 N.W.2d 28.

37. *Id.* at 123-124, 715 N.W.2d 28.

38. *Id.* at 119, 715 N.W.2d 28 (citations omitted).

[18] In this case, the Legislature has *not* conferred the authority to promulgate rules on local road commissions. In arguing that Oshtemo Township has no right to judicial review, Alamo Township asserts in its brief on appeal that the Road Commission "is not a 'state board, commission or agency' authorized under the laws of this State to promulgate rules from which an appeal or other judicial review has not otherwise been provided by law.... [The Road Commission] certainly is not ... authorized to promulgate rules...." And MCL 257.726 does not itself grant county road commissions the authority to promulgate rules to enforce its provisions.

We conclude that Oshtemo Township's ordinance does not conflict with state law, either directly or by conflicting with an agency's interpretation of state law.

4. MCL 257.726(3) IS UNCONSTITUTIONAL AS APPLIED

[19, 20] We conclude that MCL 257.726(3) is unconstitutional as applied to a reasonable township traffic control ordinance because the authority that it purports to grant to county road commissions conflicts with article 7, § 29 of the Michigan Constitution. As this Court has recently recognized, "when a statute contravenes the provisions of the state constitution it is unconstitutional and void."³⁹ The Legislature's authority does not extend to eradicating constitutional guarantees.⁴⁰

39. *AFSCME Council 25 v. State Employees' Retirement Sys.*, 294 Mich.App. 1, 15, 818 N.W.2d 337 (2011).

40. See *Midland Cogeneration Venture*, 489 Mich. at 94, 803 N.W.2d 674 ("The legislature may not eradicate a constitutional guarantee....").

The Michigan Supreme Court has held that the Legislature exceeds its authority when it attempts to prevent municipalities from adopting reasonable traffic regulations, which are explicitly authorized by the Michigan Constitution, when the regulations do not conflict with state law.⁴¹ In *City of Dearborn v. Sugden & Sivier, Inc.*, the former version of MCL 257.726 was at issue,⁴² which provided that local authorities could limit the weight of trucks on highways “except State trunk-line highways”⁴³ After the defendant was ticketed for an excessive axle load, it challenged the ordinance, arguing that the city had inappropriately placed a weight limit on a trunk-line highway.⁴⁴ Noting that the reasonableness of the ordinance was not at issue and that “[i]t does not assume to authorize conduct by those using its streets and highways of a character forbidden by general State law,” the Court held that “the legislature exceeded its authority in undertaking to prevent municipalities from adopting” such an ordinance.⁴⁵

We conclude that the Legislature has exceeded its authority to the extent that it has purported to grant a county road commission the authority to void a township’s reasonable traffic control ordinance. At the very least, the road commission must determine that the township’s ordinance is unreasonable before it may void the ordinance. In this case, despite the parties’ proffered evidence concerning the reasonableness of the ordinance before the Road

Commission, it did not determine that the ordinance was unreasonable when it resolved to void it. And when before the trial court, the Road Commission, Kalamazoo Township, and Alamo Township did not even attempt to demonstrate that Oshtemo Township’s traffic control ordinance was unreasonable. Thus, we conclude that MCL 257.726(3) was unconstitutional as applied.

VI. DELEGATION OF LEGISLATIVE AUTHORITY

[21–23] Finally, we need not reach the merits of Oshtemo Township’s argument concerning the validity of the Legislature’s delegation of authority because of our previous conclusion. But we do note that if a road commission’s decision to “approve or void” an ordinance were not limited to voiding those ordinances that are unreasonable, the complete lack of standards contained in the statute would very likely render it a constitutionally deficient delegation of authority. The Legislature “‘may delegate to an administrative body the power to make rules and decide particular cases’”⁴⁶ Delegations of legislative authority include delegations of rule-making authority and “referral statute[s],” which allow an agency to determine whether a fact has occurred that triggers the statute’s operation.⁴⁷ But in such delegations, “[a] complete lack of standards is constitutionally impermissible.”⁴⁸

41. See *City of Dearborn v. Sugden & Sivier, Inc.*, 343 Mich. 257, 72 N.W.2d 185 (1955).

42. See 1994 PA 300.

43. *Id.* at 259, 72 N.W.2d 185 quoting former MCL 257.726, as set forth in 1949 PA 300.

44. *Id.* at 259–260, 72 N.W.2d 185.

45. *Id.* at 265–267, 72 N.W.2d 185.

46. *Herrick Dist. Library*, 293 Mich.App. at 580, 810 N.W.2d 110, quoting *West Virginia*

ex rel. Dyer v. Sims, 341 U.S. 22, 30, 71 S.Ct. 557, 95 L.Ed. 713 (1951).

47. *Taylor v. Gate Pharmaceuticals*, 468 Mich. 1, 10, 658 N.W.2d 127 (2003). See also *In re Complaint of Royas Against SBC Mich.*, 482 Mich. at 101, 754 N.W.2d 259.

48. *Blue Cross & Blue Shield of Mich. v. Governor*, 422 Mich. 1, 55, 367 N.W.2d 1 (1985).

In terms of a delegation of legislative authority, MCL 257.726(3) rests on very unsteady ground. In *Blue Cross & Blue Shield of Mich. v. Governor*, the Michigan Supreme Court held that the Legislature's instruction to the Insurance Commissioner to "either 'approve' or 'disapprove'" risk factors proposed by healthcare corporations, without any guiding standards, was not a constitutionally permissible delegation of legislative authority.⁴⁹

This case is extremely similar to *Blue Cross & Blue Shield of Mich.* Here, MCL 257.726 contains neither factors for the road commission to consider when determining whether to "approve or void" an ordinance nor guiding standards, even in the form of a generalized statement of public policy. Thus, even if MCL 257.726(3) did not conflict with Const. 1963, art 7, § 22 as applied to a reasonable traffic control ordinance, we are extremely skeptical that it would pass constitutional muster—as, on its face, it would appear to confer unlimited discretion, without guiding standards, on county road commissions.

VII. CONCLUSION

We conclude that MCL 257.726(3) conflicts with Const. 1963, art 7, § 22 to the extent that it purports to grant county road commissions the authority to void a township's reasonable traffic control ordinance when that ordinance does not conflict with state law. In this case, the Road Commission did not determine that Osh-

temo Township's ordinance is unreasonable. Thus, the Road Commission's decision violated the Michigan Constitution, and the trial court erred when it determined that the Road Commission's decision to void Oshtemo Township's traffic control ordinance under MCL 257.726(3) was authorized by law. Given our conclusions, we need not reach Oshtemo Township's remaining issues.

We reverse and remand for entry of summary disposition in favor of Oshtemo Township. Because this appeal does not involve a determination in a contested case, we may not remand to the Road Commission for additional fact-finding because our review is limited to the administrative record.⁵⁰ However, we do not preclude Kalamazoo and Alamo Townships from bringing a new challenge to Oshtemo Township's ordinance. The trial court should specify in its order for dismissal that this is not an adjudication on the merits for the purposes of *res judicata*.⁵¹ We do not retain jurisdiction. Oshtemo Township, having prevailed in full, may tax costs under MCR 7.219(A).

SERVITTO, P.J., and WHITBECK and SHAPIRO, JJ., concurred.



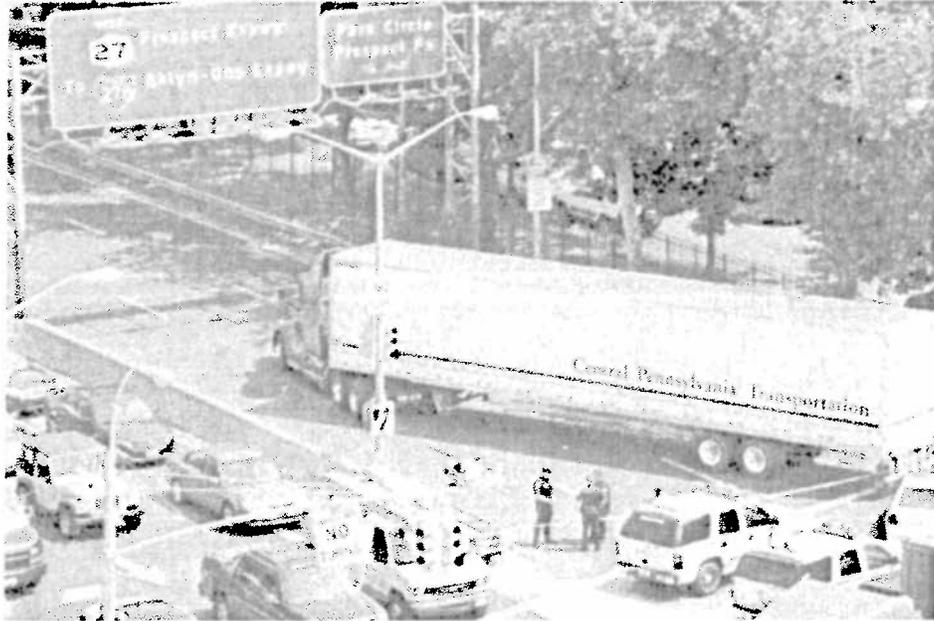
49. *Id.* at 52, 367 N.W.2d 1.

50. See *Mich. Ass'n. of Home Builders v. Dep't. of Labor & Economic Growth Director*, 481 Mich. 496, 750 N.W.2d 593 (2008).

51. See MCR 2.504(B)(3).

Thursday, January 9, 2014

Trucks and Cities Are Like Oil and Water. Is There a Solution? by Tanya Snyder



This freight truck killed 73-year-old pedestrian Ngozi Agbim in Brooklyn this June.
Photo: Daily News via Streetsblog NYC

About 350 pedestrians, cyclists and motorcyclists are killed each year by large trucks in this country. Big freight trucks are incompatible with cities in many ways, bringing danger, pollution, noise, and traffic congestion. They park in bike lanes and have shockingly big blind spots, putting everyone around them at risk. And yet, most cities haven't found a way to reconcile the need to move goods with all their other priorities.

Meanwhile, as more and more cities prioritize walkability and bike-friendliness, they often neglect the task of reconfiguring freight logistics.

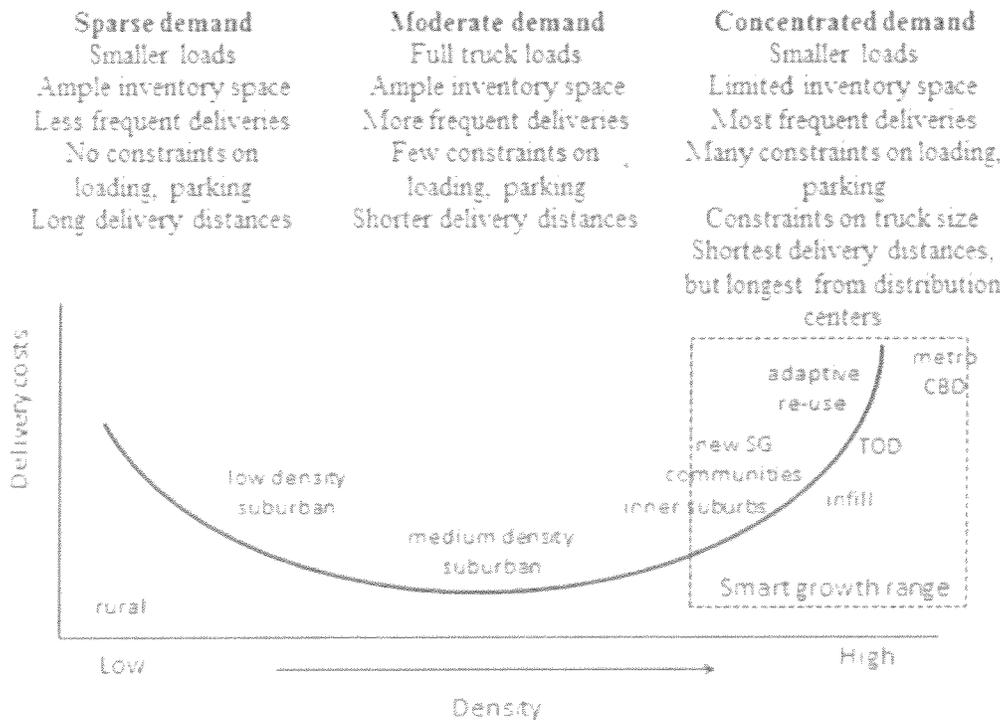
As part of the MAP-21 transportation bill, U.S. DOT convened a Freight Advisory Committee to help inform the creation of a national strategic plan for freight transportation. One of the advisory panel's six subcommittees focuses on the first mile/last mile problem, but even that one subcommittee is reportedly more concerned with port access than delivery issues at the destination. The interplay between urban freight transportation and smart growth is far from a core focus of the committee.

It should be a top priority for urbanists and complete streets advocates, though. If we don't help cities plan for freight movement, what we'll get is unplanned freight movement, and all the chaos that comes with it. About 80 percent of freight in cities is delivered by trucks, and those trucks pose a significant threat to livability.

Loading and unloading slows traffic and takes up street space. When businesses do have dedicated loading docks, they reduce available space for the business and for the pedestrian activity that enlivens urban spaces. Then there's noise pollution, air pollution, and safety concerns.

And yet, our cities run on the goods these hulking trucks deliver — and the garbage they take away. (Yes, trash pick-up is a freight question too.)

Suburbs are paradise for freight companies. Density is high enough that they can fill their trucks to the brim but low enough that roads are big and wide and parking lots stretch to the horizon. Destinations are close enough together that trucks can make multiple deliveries, and distribution warehouses tend to be located in suburbs.



How density impacts freight efficiency. Image courtesy of Genevieve Giuliano

But according to Genevieve Giuliano, a member of the national Freight Advisory Committee and the nation's top expert on urban goods movement, everything there is to love about cities is everything that makes freight movement hard. Land values are high. Everybody's fighting for scarce street space. Big trucks can't fit around all the tight corners. Stores have a smaller footprint, and less storage space means more frequent deliveries. And the distribution center is 40 miles away.

"Smart growth is all about moving up that curve to become more dense," said Giuliano. "And the more you move up the curve to become more dense, the more all of these challenges will kick in. And in smart growth, nobody ever thinks about freight."

That sentiment is echoed by SUNY-Buffalo Professor Qian Wang, who is presiding over an urban freight session at the annual Transportation Research Board meeting next week, in which dozens of researchers will present their work on the issue.

"Now researchers are talking about how to add freight and the trucking industry into the big picture," Wang said, "so that the 'smart' is not just smart for the community, but also for the truck and the freight."

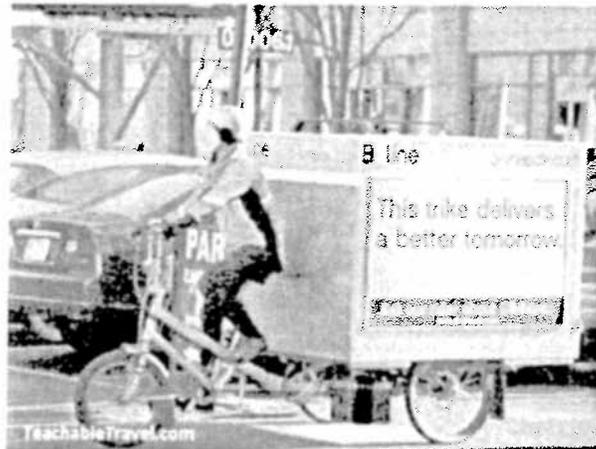
FedEx and UPS notoriously pay cities millions a year in parking tickets, considering it a necessary cost of doing business. Often, rather than pay each individual ticket, they negotiate a lump sum with the city, removing the incentive for drivers to park legally.

The fact is those cities have never come up with a realistic plan for how to supply the stores, restaurants, and offices that make them tick. So double-parking has, essentially, become a foundation of our nation's unsustainable freight strategy.

Giuliano — a member of a federally-convened national committee on freight, mind you — isn't so convinced that any of this is really a federal issue. There's a lot cities can't control when it comes to freight — the fact that you eat out every day instead of subsisting purely off your rooftop garden, for example, resulting in the need to stock restaurants with all your favorite imported beers and off-season produce. But cities can control some things, and Giuliano says they should probably be the ones taking leadership here.

It's unlikely a single city street will be designated part of the official, 27,000-mile national freight network that U.S. DOT is also currently tasked with coming up with — after all,

there are 47,000 miles of interstate vying for the title — but cities can designate their streets as truck routes.



Delivery bikes like these aren't such a far-fetched solution to urban freight woes, but they do increase labor costs. Photo:Teachable Travel

Unfortunately, many cities haven't done a great job of establishing truck routes, and there's little to no public data about where trucks go once they leave the port, so there's not much to work with. But Wang says freight companies have excellent data on the movement of their trucks; they just don't share it readily with academics or city planners.

Giuliano said truck route enforcement in many cities is quite robust, and truckers are far more sensitive to moving violations than parking violations. But as Wang notes, every mode is jockeying for space on "truck routes" too.

Cities can also work freight into their building codes. New York City has mandated that developers have to plan for onsite loading facilities as part of their design. And there are other creative ways some researchers have come up with for managing freight in dense communities:

- Smaller trucks. Large trucks can shift their loads onto smaller trucks for urban deliveries. That means more trucks but smaller ones, which can also be electric, reducing some of the negative impacts on the city. It also means more time, labor and cost for trucking companies. I asked Giuliano if unions had been a part of the conversation, and she said that most local delivery companies aren't unionized. Where you have unions, she said, is the receiver side, making the following idea challenging:

- Off-peak delivery times. Though this can create noise pollution in residential areas in the dead of night, bringing trucks into the city during low-congestion times makes a lot of sense. However, as Giuliano said, that means someone either needs to be at the store (getting paid time-and-a-half during a time there's usually no one on the clock) to receive the shipment, or they need to trust the distributor that everything will go perfectly without supervision. Variable road pricing, more expensive at peak times, also helps to incentivize trucking companies to delivery at off-hours but doesn't do anything to entice the receivers.
- Load consolidation. It can be hard for competing suppliers to cooperate, but when they group their goods together on one truck, it can make for fewer trips — though it can also make for bigger trucks.
- Cargo bikes! The European Union has a project to study ways to move freight to modes with fewer negative externalities than trucking. The project, called Cycle Logistics, has estimated that 42 percent of urban freight could go on bikes instead of trucks. A Boston-area company, Metro Pedal Power, uses pedal-trucks to haul up to 500 pounds of localized freight. Again, it's a lot of load-shifting and a whole lot more labor costs, but wow — I want to live in the city that has 42 percent of its freight delivered by bike. At the very least, you'd have some ripped delivery men.

Giuliano is skeptical that bikes can take over such a high percentage of truck freight, but she allows that it's not impossible. "In Tokyo, the truck comes in and it parks. And then a bunch of people hand deliver or bike deliver from that point." It's a lot of loading and unloading and a lot higher labor costs. "If that's the price of a more pleasant environment and cleaner air, then it's a good bargain, right?"

<http://usa.streetsblog.org/2014/01/09/trucks-and-cities-are-like-oil-and-water-heres-a-solution/>



CITY OF DETROIT
OFFICE OF THE CHIEF FINANCIAL OFFICER
GRANTS MANAGEMENT

201

1933
JUN 15 2016

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 1020
DETROIT, MICHIGAN 48226
PHONE 313 • 628-2155
FAX 313 • 224 • 0542
WWW.DETROITMI.GOV

June 15, 2016

The Honorable Detroit City Council
ATTN: City Clerk Office
200 Coleman A. Young Municipal Center
Detroit MI 48226

RE: Authorization to submit a grant application to the Robert Wood Johnson Foundation - 2016

The Detroit Health Department is hereby requesting authorization from Detroit City Council to submit a grant application to the Robert Wood Johnson Foundation to reduce asthma and respiratory related emergency care. The amount being sought is \$500,000. There is no match requirement for this grant.

2016 Robert Wood Johnson Foundation Pioneer Portfolio Program funding will enable the department to pay for:

- Program and Research Staff Salary
- Patient Respiratory Monitoring Equipment and Supplies
- Program Software Development
- IRB Certification Approval Process
- Program Supplies

We respectfully request your approval to submit the grant application by adopting the attached resolution.

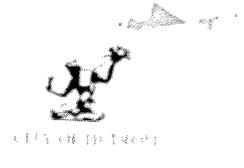
Sincerely,

Nichelle Hughley, Deputy CFO - OGM

Enclosure
Kellie Russell, Assistant Director - OGM
Lesley Welch, Deputy Director

APPROVED

BUDGET DIRECTOR
FINANCE DIRECTOR



RESOLUTION

Council Member _____

WHEREAS, the Detroit Health Department has requested authorization from City Council to submit a grant application to the Robert Wood Johnson Foundation in the amount of \$500,000 to reduce asthma and respiratory related emergency care; and

WHEREAS, the Detroit Health Department is not required to provide a match for this grant, now therefore be it

RESOLVED, the Detroit Health Department is hereby authorized to submit a grant application to the Robert Wood Johnson Foundation in the amount of \$500,000 to reduce asthma and respiratory related emergency care.



RESOLUTION

Council Member _____

WHEREAS, the Detroit Health Department has requested authorization from City Council to submit a grant application to the Robert Wood Johnson Foundation in the amount of \$500,000 to reduce asthma and respiratory related emergency care; and

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CITY CLERK 2016 SEP 2 9:40:11

June 15, 2016

The Honorable Detroit City Council
ATTN: City Clerk Office
200 Coleman A. Young Municipal Center
Detroit MI 48226

RE: Authorization to submit a grant application to the Robert Wood Johnson Foundation - 2016

The Detroit Health Department is hereby requesting authorization from Detroit City Council to submit a grant application to the Robert Wood Johnson Foundation to reduce asthma and respiratory related emergency care. The amount being sought is \$500,000. There is no match requirement for this grant.

2016 Robert Wood Johnson Foundation Pioneer Portfolio Program funding will enable the department to pay for:

- Program and Research Staff Salary
- Patient Respiratory Monitoring Equipment and Supplies
- Program Software Development
- IRB Certification Approval Process
- Program Supplies

We respectfully request your approval to submit the grant application by adopting the attached resolution.

Sincerely,

Nichelle Hughley, Deputy CFO – OGM

Enclosure
Kellie Russell, Assistant Director – OGM
Leselie Welch, Deputy Director

APPROVED
6/15/16
BUDGET DIRECTOR
FINANCE DIRECTOR



Office of Grants Management

RESOLUTION

Council Member _____

WHEREAS, the Detroit Health Department has requested authorization from City Council to submit a grant application to the Robert Wood Johnson Foundation in the amount of \$500,000 to reduce asthma and respiratory related emergency care; and

WHEREAS, the Detroit Health Department is not required to provide a match for this grant, now therefore be it

RESOLVED, the Detroit Health Department is hereby authorized to submit a grant application to the Robert Wood Johnson Foundation in the amount of \$500,000 to reduce asthma and respiratory related emergency care.

Office of Grants Management
Grant Application Request Form



In order to secure the Office of Grants Management approval required under Section 18-4-2 of the Detroit City Charter, this form is to be filled out by City Departments as soon as possible upon learning of an opportunity that the Department would like to pursue. This form must be submitted not later than 20 business days prior to the application deadline.

Please submit this form to Kellie Russell, Associate Director of Grants Management, Office of Grants Management at krussell @detroitmi.gov.

Agency	Health Department
Date	6/10/16
Department Contact Name	David Yeh
Department Contact Phone	313.670.1663
Department Contact Email	yehd@detroitmi.gov
Grant Opportunity Title	RWJF Pioneer Portfolio Ad Hoc Proposal
Grant Opportunity Funding Agency	Robert Wood Johnson Foundation
Web Link to Opportunity Information	No RFP - Dr. El Sayed was invited to apply
Maximum Award Amount	\$1,000,000
Application Due Date	7/8 (rolling submissions, but 7/8 was discussed with program officers)
Duration of Grant Award	Subject to proposal needs (est. 1 year)
Anticipated Proposed Budget Amount	\$500,000
Match Requirement	None Indicated
Anticipated Source of Match	
List of programs/services/activities to be funded and the Amount of Funding Requested for Each <i>Sample:</i> - ABC Afterschool program: \$150,000 - XYZ Youth leadership program: \$100,000 - Salary/Benefits: \$95,000 - Supplies: \$5,000	Stationary Ozone Monitors: \$48,000 Stationary Particulate Monitors: \$12,000 Wearable Air Quality Monitors: \$200,000 Asthma Inhaler Sensors: \$150,000 Software Development: \$50,000 Research Staff Salary: \$10,000 Program Staff Salary: \$20,000 IRB Approval Process: \$2,000 Supplies: \$8,000
Brief Statement of Priorities/Purpose for the Application <i>Sample: To support expansion of promising youth development programs in MNO neighborhood.</i>	To reduce the incidence of asthma exacerbations and hospitalizations using real-time air quality monitoring data informed through a distributed network of wearable and stationary air quality monitors
Key Performance Indicators to be Used to Measure the Programs/Services/Activities <i>Sample:</i> # of kids newly enrolled in ABC and XYZ # of kids who complete ABC and XYZ % of kids from ABC who demonstrate improved educational performance % of kids from XYZ who demonstrate improved leadership skills	Reduction in asthma or respiratory-related Emergency Department Visits Reduction in school absences due to asthma flare-ups

David Yeh
Director's Signature

6/10/2016
Date

