

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

KAREN SPRANGER,
Individually and in her official
capacity as Macomb County Clerk /
Register of Deeds,
Plaintiff,

Case No. 2017-2261-CZ

Hon. Kathryn A. Viviano

-vs-

MACOMB COUNTY, MACOMB COUNTY BOARD
OF COMMISSIONERS, MARK HACKEL, in
his official capacity as Macomb County Executive,
MACOMB COUNTY EXECUTIVE and
MACOMB COUNTY ETHICS BOARD,
Defendants.

**Hrng.: Mon., 08-14-17
8:30 a.m.**

COUNTY OF MACOMB and
MACOMB COUNTY BOARD OF COMMISSIONERS,
Counter-Plaintiffs,

-vs-

KAREN SPRANGER,
Counter-Defendant.

FRANK A. CUSUMANO JR. (P42781)
Attorney for Plaintiff / Counter-Defendant
16188 Jenny Drive
Macomb, MI 48042
(586) 453-4084

JOHN A. SCHAPKA (P36731)
PETER JENSEN (P25001)
FRANK KRYCIA (P35383)
Macomb County Corporation Counsel
Attorneys for Counter-Plaintiffs
One S. Main Street, 8th Floor
Mount Clemens, MI 48043
(586) 469-6346

MACOMB COUNTY AND MACOMB COUNTY BOARD OF COMMISSIONER'S
MOTION FOR LEAVE TO FILE COUNTER-COMPLAINT
AGAINST PLAINTIFF/COUNTER-DEFENDANT KAREN SPRANGER

NOW COME proposed Counter-Plaintiffs, the County of Macomb and Macomb
County Board of Commissioners, by and through the Office of Macomb County
Corporation Counsel, and for their motion for leave to file a counter-complaint against
the Plaintiff/Counter-Defendant alleging quo warranto, state:

1. Plaintiff was elected Macomb County Clerk / Register of Deeds at the November 8, 2016 general election after filing an affidavit of identity where Plaintiff swore under oath that her residence was 7520 Hudson in the City of Warren. The affidavit of identity is attached as Exhibit A to the proposed counter-complaint attached to the brief in support of this motion as Exhibit A.

2. Plaintiff subsequently filed this lawsuit against the County and its various officials and agencies.

3. During investigation of this lawsuit, Macomb County and the Macomb County Board of Commissioners has learned that there is strong evidence that Plaintiff made a false statement on her affidavit of identity when she indicated she resided at 7520 Hudson.

4. The term "residence" as used in the affidavit of identity is defined in MCL 168.11(1) which provides:

- (1) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act.

5. Plaintiff has been involved in disputes with the City of Warren that lead to two Court of Appeals decisions finding that Plaintiff did not qualify for a principal residence exemption or a poverty exemption since she has not resided at 7520 Hudson since 2012 and that the property has been uninhabitable since 2012 due to the lack of utilities. See Exhibits C and D to proposed counter-complaint.

6. The City of Warren's records show that water service for 7520 Hudson has been shut off since 2012. See Exhibit E to proposed counter-complaint.

7. Plaintiff has not re-established a principal residence exemption for 7520 Hudson with the City of Warren.

8. Since 2012, 7520 Hudson has been cited for nuisance by the City of Warren and this property has been uninhabitable due to physical deterioration and the lack of utilities.

9. As a matter of law, a candidate that does not accurately state their residence on an affidavit of identity is disqualified from running for and holding office.

10. Plaintiff did not reside at 7520 Hudson when she filed the affidavit of identity on April 6, 2016 and, therefore, she is not qualified to hold the office of Macomb County Clerk / Register of Deeds.

11. Proposed Counter-Plaintiffs filed this action promptly after learning these facts and complying with the conditions in MCR 3.306.

12. Pursuant to MCR 3.306(B)(3)(a), Macomb County applied to the Attorney General to have the Attorney General file this action which was denied and, therefore, proposed Counter-Plaintiffs bring this motion for leave to file a claim for quo warranto as a counter-complaint in this matter.

13. Proposed Counter-Plaintiffs are proper parties to pursue this action and the facts raise serious issues as to whether Plaintiff is properly holding office as the Macomb County Clerk / Register of Deeds which should be considered by this Court and promptly resolved.

14. In light of the seriousness of these issues, Counter-Plaintiffs also request

this Court to issue an order to Plaintiff to show cause as to why an order of quo warranto should not issue.

WHEREFORE, Macomb County and the Macomb County Board of Commissioners request this Court grant leave to allow them to file an action in quo warranto against Plaintiff pursuant to MCR 3.306(B)(3)(b), to issue an order to Plaintiff to show cause as to why an order for quo warranto should not issue and to grant further relief as this Court determines to be fair and equitable.

/s/ John A. Schapka
JOHN A. SCHAPKA (P36731)
Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

/s/ Peter Jensen
PETER JENSEN (P25001)
Assistant Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

/s/ Frank Krycia
FRANK KRYCIA (P35383)
Assistant Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

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capacity as Macomb County Clerk /
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BRIEF IN SUPPORT OF
MACOMB COUNTY AND MACOMB COUNTY BOARD OF COMMISSIONER'S
MOTION FOR LEAVE TO FILE COUNTER-COMPLAINT
AGAINST PLAINTIFF/COUNTER-DEFENDANT KAREN SPRANGER

Macomb County and the Macomb County Board of Commissioners bring this motion for leave to file a counter-claim in this matter alleging quo warranto as required by MCR 3.306(B)(3)(b). A copy of the proposed counter-complaint for quo warranto,

with exhibits, is attached as Exhibit A. The Attorney General has been requested to file this action as required by MCR 3.306(B)(3)(a) and has declined, finding that as this matter involves a local office and is of a local nature, it is best resolved at the county level. A copy of the Attorney General's letter is attached as Exhibit B.

Plaintiff, Karen Spranger, who is currently holding office as Macomb County Clerk / Register of Deeds, brought this action against the County of Macomb and its various officials and agencies requesting injunctive and declaratory relief. During the investigation of this lawsuit, Macomb County and the Macomb County Board of Commissioners have learned that there is strong evidence that Plaintiff made a false statement on the affidavit of identity she filed on April 6, 2016 to run for Macomb County Clerk / Register of Deeds. A copy of the affidavit of identity is attached as Exhibit A to the proposed complaint.

In the affidavit of identity, Plaintiff lists 7520 Hudson in the City of Warren as her "residence". Plaintiff acquired 7520 Hudson from her mother's estate by quit claim deed in 2003. A copy of the quit claim deed is attached to the proposed complaint as Exhibit B.

Plaintiff then had issues with the City of Warren regarding the principal residence exemption (PRE) on the property which lead to a Court of Appeals opinion, *Spranger v City of Warren*, unpublished Court of Appeals Opinion, (docket no. 319273, March 12, 2015). This opinion is attached to the proposed complaint as Exhibit C. The Court of Appeals reviewed the relevant facts and found that Plaintiff was not qualified for a principal residence exemption since she did not reside at the premises. The Court noted that there was limited water usage and the water had been shut off in the autumn of

2012. The Court also found that Plaintiff lacked credibility as she filed an affidavit for the principal residence exemption claiming she lived at the property since 2001 but registered to vote and voted from a Clinton Township address through July 6, 2011. Plaintiff has not been granted a PRE since that decision, so in 2016 when she filed the affidavit of identity, she did not have a PRE on 7520 Hudson.

There is also a second Court of Appeals opinion on Plaintiff's claim for a poverty exemption which found that the prior opinion established that Plaintiff did not reside at 7520 Hudson and accordingly, could not meet the requirements for a poverty exemption. *Spranger v City of Warren*, unpublished Court of Appeals Opinion, (docket no. 326964, August 25, 2016). A copy of this decision is attached as Exhibit D to the proposed counter-complaint.

The water was not turned back on at 7520 Hudson. The City of Warren's water records show no water usage during 2016. A copy of recent water usage records is attached as Exhibit E to the proposed counter-complaint. In addition to the lack of water usage, 7520 Hudson has been cited for nuisance violations by the City of Warren. Between the lack of utilities and the nuisance condition, 7520 Hudson was uninhabitable during the relevant time period.

The issue is whether Plaintiff is qualified to hold office since she did not list her residence on the affidavit of identity. A candidate running for office must file an affidavit of identity pursuant to MCL 168.558. MCL 168.558(1) requires the candidate to state the candidate's name and address and precinct number among other information on the affidavit of identity. Making a false statement in the affidavit is punishable as perjury and the affidavit contains a notice to this effect above the signature line. MCL 168.558(4).

The purpose behind the affidavit of identity is "to insist upon full and complete identification of candidates for public office in order to provide the electorate with the information necessary to cast their ballots effectively for the candidates of their choice." *Sullivan v Secretary of State*, 373 Mich 627, 631; 130 NW2d 392 (1964).

In an unpublished opinion, the Court of Appeals found that a candidate that provided a false address for their residence was disqualified from running for office. *Hylton v Wayne County Clerk*, unpublished opinion of the Court of Appeals, issued February 18, 2000, (Docket No. 213191). A copy of the *Hylton* decision is attached as Exhibit C. While unpublished decisions are not precedential, the *Hylton* case analysis of the law on this issue is persuasive.

In *Hylton*, the Court considered whether a candidate that used a vacant home for their address on an affidavit of identity was qualified to run for office. The challenge to the candidate was made before the election so the proceeding was for a writ of mandamus to direct the clerk to not put the candidates name on the ballot. There was substantial evidence that the house the candidate listed on his affidavit of identity was abandoned. The Court concluded that providing a false address for the candidate's residence on an affidavit of identity violated election law and found that the writ of mandamus to disqualify the candidate was properly issued.

If a challenge is made after the election the proper writ is quo warranto. *Davis v Chatman*, 292 Mich App 603, 606; 808 NW2d 555 (2011). Quo warranto is a common law writ used to inquire into the authority by which a public office is held. *Id.* at 612. Quo warranto is governed by MCL 600.4505 and MCR 3.306. MCR 3.306(B)(3)(a) requires that a party seeking to file an action for quo warranto present a request to the Attorney

General. If the Attorney General denies the request, leave of the court must be sought before bringing the action. MCR 3.306(B)(3)(b). Proposed Counter-Plaintiffs complied with these requirements by requesting the Attorney General to bring an action and then by filing this motion for leave.

The Court of Appeals has stated that:

[T]he most important considerations in granting leave to file quo warranto are (1) whether an appropriate application was made to the Attorney General and (2) whether the application disclosed sufficient apparent merit to justify further inquiry by quo warranto proceedings. *Davis* 292 Mich App at 613.

Based on the known facts and the law, there is sufficient apparent merit to justify further inquiry. The known facts strongly establish that 7520 Hudson was not Plaintiff's residence at the time she filed the affidavit of identity. The term residence, for election purposes, is defined by MCL 168.11(1):

"Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act.

7520 Hudson was unfit for habitation and there is no credible evidence that Plaintiff lived there since 2011.

As found in *Hylton*, the inquiry should be whether the address Plaintiff used on her affidavit of identity was in fact her residence. If it was not, Plaintiff did not comply with the legal requirements to properly run for the office of Macomb County Clerk / Register of Deeds and should be found not to be properly holding that office.

Accordingly, proposed Counter-Plaintiffs do not need to show fraud, *Hylton*, slip op p 8, they just need to show that the address Plaintiff put on the affidavit of identity was not her residence.

This Court also does not need to determine Plaintiff's actual residence. In *Stand Up for Democracy v Secretary of State*, 492 Mich 588; 822 NW2d 159 (2012), a plurality opinion, a majority of the Justices rejected the substantial compliance standard in election matters. Relying on *Stand Up for Democracy*, the Court of Appeals found that a candidate was disqualified from running for or holding office when the candidate omitted to list his voting precinct on an affidavit of identity. *Berry v Garrett*, 316 Mich App 37, 51; 890 NW2d 882 (2016).

Since *Stand Up for Democracy*, candidates are required to strictly comply with election law or they are disqualified. Plaintiff did not list her proper residence on her affidavit of identity. Accordingly, this Court should find there is sufficient merit to allow the proposed claim for quo warranto to proceed.

Proposed Counter-Plaintiffs are also proper parties to seek quo warranto. *Grand Rapids v Harper*, 32 Mich App 324, 328-329; 188 NW2d 668 (1971). The proposed Counter-Plaintiffs are also pursuing this matter promptly. They are not alleging fraud in the election process so MCL 600.4545's time limit does not come into play.

Proposed Counter-Plaintiffs are proper parties to pursue this action and the facts raise serious issues as to whether Plaintiff is properly holding office as the Macomb County Clerk / Register of Deeds which should be considered by this Court and promptly resolved. There is sufficient merit in this matter to allow for the proposed claim of quo warranto to proceed.

WHEREFORE, Macomb County and the Macomb County Board of Commissioners request this Court grant leave to allow them to file an action in quo warranto against Plaintiff pursuant to MCR 3.306(B)(3)(b), to issue an order to Plaintiff to show cause as to why an order for quo warranto should not issue and to grant further relief as this Court determines to be fair and equitable.

/s/ John A. Schapka
JOHN A. SCHAPKA (P36731)
Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

/s/ Peter Jensen
PETER JENSEN (P25001)
Assistant Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

/s/ Frank Krycia
FRANK KRYCIA (P35383)
Assistant Corporation Counsel
Attorney for Proposed Counter-Plaintiffs

INDEX OF EXHIBITS

- A Proposed Counter-Complaint
- B Attorney General's Response Letter dated July 20, 2017
- C Unpublished opinion, *Hylton v Wayne County Clerk*, February 18, 2000

EXHIBIT A

Proposed Counter-Complaint

Motion for Leave to File Counter-Complaint

2017-2261-CZ

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COUNTER-COMPLAINT
AGAINST PLAINTIFF/COUNTER-DEFENDANT KAREN SPRANGER

NOW COME Counter-Plaintiffs, the County of Macomb and Macomb County
Board of Commissioners, by and through the Office of Macomb County Corporation
Counsel, and for its counter-complaint against the Plaintiff/Counter-Defendant, state:

1. Counter-Plaintiff County of Macomb is a municipal corporation organized
pursuant to statute, MCL 45.501 et seq., and is a charter county.

2. Counter-Plaintiff, the Macomb County Board of Commissioners, is the legislative body of the County of Macomb.

3. Counter-Defendant Karen Spranger is an individual.

4. The cause of action arose in the City of Mount Clemens and venue is proper in this Court.

5. This Court has jurisdiction over this matter as Counter-Plaintiffs are requesting equitable relief and pursuant to MCR 3.306(A)(2), this Court has jurisdiction to hear actions for quo warranto involving local officials.

Count I
QUO WARRANTO

6. Counter-Plaintiffs repeat the prior allegations.

7. On April 6, 2016, Counter-Defendant filed an affidavit of identity to run as a candidate for Macomb County Clerk / Register of Deeds in the 2016 general election, copy attached as Exhibit A, and won the general election on November 8, 2016 by 635 votes.

8. In her affidavit of identity, Counter-Defendant indicated that her residence was 7520 Hudson in Warren, Michigan and Counter-Defendant swore under oath that the facts she provided in the affidavit were true and acknowledged that making a false statement in this affidavit was felony perjury.

9. The term "residence" as used in the affidavit of identity is defined in MCL 168.11(1) which provides:

- (1) "Residence", as used in this act, for registration and voting purposes means that place at which a person

habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act.

10. While Counter-Defendant owns 7520 Hudson pursuant to a quit claim deed, attached as Exhibit B, she did not reside at 7520 Hudson at the time she filed the affidavit of identity.

11. In an unpublished decision dated March 12, 2015, the Michigan Court of Appeals affirmed the Michigan Tax Tribunal's finding that Counter-Defendant did not reside at 7520 Hudson since 2012 and, therefore, was not entitled to a Principal Residence Exemption (PRE). A copy of this decision is attached as Exhibit C.

12. The Michigan Court of Appeals based its ruling on evidence that water service to 7520 Hudson was shut off in 2012 and prior to the shut off, water usage was minimal. Exhibit C, slip op p 3.

13. In a subsequent opinion dealing with Counter-Defendant's claim for a poverty exemption on 7520 Hudson, the Court of Appeals again found that Counter-Defendant was not qualified for a poverty exemption because 7520 Hudson was not her residence. A copy of this opinion is attached as Exhibit D.

14. The City of Warren's records show that water service for 7520 Hudson has been shut off since 2012. See Exhibit E.

15. Counter-Defendant has not re-established a principal residence exemption for 7520 Hudson with the City of Warren.

16. Since 2012, 7520 Hudson has been cited for nuisance by the City of

Warren and this property has been uninhabitable due to physical deterioration and the lack of utilities.

17. As a matter of law, a candidate that does not accurately state their residence on an affidavit of identity is disqualified from running for and holding office.

18. Counter-Defendant did not reside at 7520 Hudson when she filed the affidavit of identity on April 6, 2016 and, therefore, she is not qualified to hold the office of Macomb County Clerk / Register of Deeds.

19. Counter-Plaintiffs filed this action promptly after learning these facts and complying with the conditions in MCR 3.306.

20. In light of the serious nature of these issues, Counter-Plaintiffs request this Court to enter an order to Counter-Defendant to show cause why an order granting Counter-Plaintiffs' request for quo warranto should not be issued.

WHEREFORE, Counter-Plaintiffs request this Court to enter an order to Counter-Defendant to show cause why quo warranto should not issue and upon conclusion of the hearing to grant an order of quo warranto determining that Cross-Defendant is not properly holding the office of Macomb County Clerk / Register of Deeds, removing Counter-Defendant from the office of Macomb County Clerk / Register of Deeds, declaring the office of Macomb County Clerk / Register of Deeds vacant and to grant Counter-Plaintiffs further relief as this Court determines to be fair and equitable.

/s/ John A. Schapka
JOHN A. SCHAPKA (P36731)
Corporation Counsel
Attorney for Counter-Plaintiffs

/s/ Peter Jensen
PETER JENSEN (P25001)
Assistant Corporation Counsel
Attorney for Counter-Plaintiffs

/s/ Frank Krycia
FRANK KRYCIA (P35383)
Assistant Corporation Counsel
Attorney for Counter-Plaintiffs

INDEX OF EXHIBITS

- A Affidavit of Identity
- B Quit Claim Deed (7520 Hudson, Warren, MI)
- C Unpublished opinion, *Spranger v City of Warren*, March 12, 2015
- D Unpublished opinion, *Spranger v City of Warren*, August 25, 2016
- E City of Warren water records

EXHIBIT A

Affidavit of Identity

Proposed Counter-Complaint
2017-2261-CZ

AFFIDAVIT OF IDENTITY AND RECEIPT OF FILING

PLEASE COMPLETE SECTIONS I, II, III AND IV BELOW (Print or Type) - See Reverse Side for Important Notifications

OFFICE USE ONLY

Received by M. Grix No. of Petition Sheets or Receipt No. 350807
 Reviewed by _____ Date of Filing 4 / 6 / 16
 Jurisdiction/District of Office Sought _____ CFR I.D. No. 139168

I. CANDIDATE IDENTIFICATION

Name Spranger Karen A Birth date 4 / 30 / 52
(Last) (First) (Middle) (Month) (Day) (Year)

Have you changed your name within the last 10 years for reasons other than marriage? Yes No
 If yes, enter full former name here (See "Section A" on reverse) _____

I WISH TO HAVE MY NAME APPEAR ON THE BALLOT AS PRINTED BELOW (Please print upper and lower case - nicknames/titles not permitted. See "Section B" on reverse.)

K A R E N A S P R A N G E R

Residence Address (Street Address, City, Zip Code) 7520 Hudson
(Street Address)
Warren MI 48091
(City) (Zip)

Mailing Address (See "Section C" on reverse)
(Street Address)
(City) (Zip)

Phone (586) 322-2841 Email karenaspranger@gmail.com Website _____

City Township of Warren Precinct # (required) 7 Ward # (if any) 5

County of macomb Resident of County for 60+ years. Resident of Michigan for 60+ years.

I am a citizen of the United States: Yes No
 I am registered and qualified to vote at the address listed above: Yes No

II. OFFICE SOUGHT

Office Title: County CLERK / Register of Deeds

Date of Election: Primary Election* 08 / 02 / 2016 General Election 11 / 08 / 2016 Recall
(Month) (Day) (Year) (Month) (Day) (Year)

If a partisan office, list political party Republican District/Circuit # (if applicable) _____
(Note: If filing a Qualifying Petition list "No Party Affiliation")

Term of Office Regular Term Partial Term Expiring _____
(Month) (Day) (Year)

Judicial Candidates Only (See "Section D" on reverse) Incumbent Position Non-Incumbent Position New Judgeship

III. FILER'S ACKNOWLEDGMENT - This filing contains the following (check all that apply):

- Nominating or Qualifying Petitions (Estimated number of signatures: _____)
- Filing Fee of \$100.00 (if applicable)
- Certification of Party Nomination and Certificate of Acceptance (if applicable)*
- Affidavit of Constitutional Qualification (judicial candidates only)*
- Affidavit of Candidacy (incumbent judicial candidates only)*

If no nominating petitions are filed:
 No nominating petitions in January
 Nominating petitions in January

FILED
 16 APR - 5 AM 8:18
 MACOMB COUNTY CLERK
 MICHAEL F. GRIX
 H. CLEMENS, CLERK

IV. CAMPAIGN FINANCE COMPLIANCE STATEMENT AND ATTESTATION

• By signing this affidavit, I swear (or affirm) that the facts I have provided are true. I further swear (or affirm) that the facts contained in the statement set forth below are true. (See Section "E" on reverse for further information.)
At this date, all statements, reports, late filing fees, and fines due from me or any Candidate Committee organized to support my election to office under the Michigan Campaign Finance Act, PA 388 of 1976, have been filed or paid.
 • I acknowledge that making a false statement in this affidavit is perjury - a felony punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. (MCL 168.558, 933 and 936)

SIGNATURE OF CANDIDATE Karen Spranger

Subscribed and sworn to before me on the 6th (Day)
 of April (Month) 2016 (Year)

Michael F. Grix
 Signature of notary public

Name of Notary MICHAEL F. GRIX
 Notary Public, State of Michigan Notary Public, Macomb County, MI
 My commission expires Dec. 19, 2017
 Acting in Macomb County
 Acting in the County of _____

EXHIBIT B

Quit Claim Deed
7520 Hudson
Warren, MI

Proposed Counter-Complaint

2017-2261-CZ

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS THAT: The Estate of MARGARET RITA SPRANGER, Deceased,
by Karen Spranger, Personal Representative

whose address is 7520 Hudson, Warren, Michigan 48091

Quit Claim(s) to KAREN SPRANGER, subject to the thirty (30%) percent interest of DEBORAH SPRANGER
in the proceeds from the sale of this house (but not more than \$17,634.00), as provided in Macomb County
Probate Court File No. 2003-175,897-DE.

whose address is 7520 Hudson, Warren, Michigan 48091


the following described premises situated in the City of Warren, County of Macomb, State of Michigan, to wit:

Lot 853, Pipers VanDyke Subdivision No. 4, as recorded in Liber 4, Page 92 of Plats, Macomb County Records.


For the full consideration of: Zero (\$0.00) Dollars - Exempt under MCLA 207.505(a) and 207.526(a)

Dated this 21 day of Nov, 2003.

WITNESSETH:




ARTHUR W. SHANNON



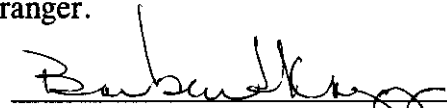
BARBARA J. KNAPP

SIGNED:


KAREN SPRANGER, Personal Representative of
The Estate of Margaret Rita Spranger

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 21 day of Nov, 2003 by Karen Spranger,
Personal Representative of the Estate of Margaret Rita Spranger.


Barbara J. Knapp, Notary Public
Macomb County, Michigan
Acting in Oakland County
My Commission Expires: 12/07/04

Instrument Drafted By:
Arthur W. Shannon, Esq., 43252 Woodward Avenue, Suite 190, Bloomfield Hills, MI 48302.

Recording Fee: \$14

When recorded return to: Arthur W. Shannon
43252 Woodward, Suite 190
Bloomfield Hills, MI 48302

Tax Parcel # 13-33-278-033

Send Subsequent tax bills to: GRANTEE

EXHIBIT C

Unpublished opinion

Spranger v City of Warren

March 12, 2015

Court of Appeals

No. 319273

Proposed Counter-Complaint

2017-2261-CZ

STATE OF MICHIGAN
COURT OF APPEALS

KAREN SPRANGER,

Petitioner-Appellant,

v

CITY OF WARREN,

Respondent-Appellee.

UNPUBLISHED

March 12, 2015

No. 319273

Michigan Tax Tribunal

LC No. 00-449782

Before: JANSEN, P.J., and METER and BECKERING, JJ.

PER CURIAM.

Plaintiff appeals as of right an order denying her a Principal Residence Exemption (PRE) for the 2012 tax year in this residential property tax action. We affirm.

Petitioner owns residential property located at 7520 Hudson, in respondent City of Warren. Petitioner filed a PRE affidavit on December 16, 2011, claiming that she had lived at the subject address since 2001, and respondent initially granted her an exemption for the 2012 tax year. However, on February 6, 2013, respondent ultimately denied petitioner's request for a PRE for 2012, finding that she did not occupy the property. Petitioner timely appealed that denial to the Michigan Tax Tribunal (MTT).

After a hearing, the MTT referee issued a proposed opinion and judgment dated September 13, 2013, which recommended that the subject property not be entitled to a PRE under MCL 211.7cc. The referee found that water usage is considered a reliable and reasonable indicator for determining occupancy of a residence and noted that water records for the property showed that the minimum chargeable amount of water was never exceeded from January 2008 through June 2012. The referee found petitioner's explanation that she conserves water and uses alternative water sources to be unpersuasive. The referee also found that petitioner failed to submit utility bills or other reliable evidence to support her contention that she had occupied the subject property as her principal residence.

Petitioner filed exceptions to the referee's proposed opinion, arguing that there was evidence that neighbors saw her residing in the home, that all of her personal property was in the residence, that the absence of water usage was due to a dispute concerning the city's metering protocol, and that she had provided corroborative testimony of other utilities used in the home. The tribunal judge considered petitioner's exceptions but noted that exceptions are limited to evidence submitted before or at the hearing and that he would not consider new evidence. On

November 6, 2013, the tribunal judge adopted the referee's proposed opinion and entered a final opinion and judgment finding that petitioner had failed to prove by a preponderance of the evidence that she was entitled to an exemption. Petitioner now appeals that final opinion and judgment.

As stated in *Briggs Tax Serv, LLC v Detroit Pub Sch*, 485 Mich 69, 75; 780 NW2d 753 (2010):

The standard of review of Tax Tribunal cases is multifaceted. If fraud is not claimed, this Court reviews the Tax Tribunal's decision for misapplication of the law or adoption of a wrong principle. We deem the Tax Tribunal's factual findings conclusive if they are supported by "competent, material, and substantial evidence on the whole record." But when statutory interpretation is involved, this Court reviews the Tax Tribunal's decision de novo. [Citations omitted.]

A petitioner must establish entitlement to a statutory exemption by a preponderance of the evidence. *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 495; 644 NW2d 47 (2002).

The entitlement to a PRE is governed by statute. MCL 211.7cc(1) provides that "[a] principal residence is exempt from the tax levied by a local school district for school operating purposes" MCL 211.7dd(c) defines a "[p]rincipal residence" as "the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established. . . ." A property owner claiming a PRE is required to file an affidavit with the local taxing authority attesting that the property is owned and occupied as a principal residence. MCL 211.7cc(2).

Petitioner argues that the record supported a finding that 7520 Hudson was her primary residence and thus she was entitled to a PRE. However, petitioner failed to provide competent, material, and substantial evidence to prove by a preponderance of the evidence that she actually occupied 7520 Hudson as her one true, fixed, and permanent home for the period at issue as required to receive a PRE.

In *James F Roberts v Twp of West Bloomfield*, unpublished opinion per curiam of the Court of Appeals, issued May 10, 2012 (Docket No. 303098), slip op at 1, the petitioner, James Roberts, owned residential property that he used as rental property. After his tenants vacated the subject property, Roberts sought to claim the property as his principal residence and sought a PRE. *Id.* In arguing against a PRE, the respondent township relied on photographic evidence that showed that the residence's yard had not been cleaned, that the residence lacked window treatments, and that there was a "paucity of furnishings." *Id.* at 2. "Most importantly, the respondent established that Roberts did not utilize water or sewage services from September 2007 through May 2009." *Id.* at 4. The Court reasoned:

On appeal, Roberts contends that "[t]here are a myriad number of reasons why someone occupying a residence may not use water, including, but not limited to, bottled drinking water, showering at a health club, not watering grass, not

cooking, etc.” We find Roberts’ claim patently ridiculous. It is incredible that a person could live in a home for 20 months without using the bathroom facilities or turning on the kitchen sink, let alone the myriad other reasons a residential customer must utilize water and sewage services. [*Id.* at 5.]

Finally, while the Court acknowledged that Roberts presented documents that usually help to indicate residency (such as his driver’s license, voter registration card, and tax returns listing the subject property as his address), those documents were deemed inadequate in light of the other evidence presented that indicated that no one, including Roberts, occupied the subject property. *Id.*

The *Roberts* ruling is instructive here. While an unpublished opinion does not provide binding precedent, it can be used as persuasive analysis. See *In re Application of Indiana Michigan Power Co*, 275 Mich App 369, 380; 738 NW2d 289 (2007); see also *Tomiak v Hamtramck School District*, 426 Mich 678, 698-699; 397 NW2d 770 (1986). Petitioner attempts to distinguish *Roberts* from her case because her property was never rented to tenants and had indications of occupancy such as the presence of personal possessions and lawn maintenance. However, the “most important[.]” determining factor of occupancy set forth in *Roberts* was water and sewer usage, *Roberts*, unpub op at 4, and petitioner here had extremely little water usage at the subject property and no proof of an alternative water source or a reasonable explanation about the lack of water usage. Petitioner’s claim that she “live[s] a spartan existence” and her arguments relating to the installation of a “smart meter”¹ failed to counter the inference of a lack of occupancy due to lack of water usage.

We note that, although respondent did primarily rely on petitioner’s lack of water usage in denying the PRE, it also presented evidence that petitioner only registered to vote in respondent city on July 6, 2011, and the registration showed her as having moved to the city from an address in Clinton Township. This information was pertinent to petitioner’s credibility because petitioner had previously claimed to have lived at the subject property during the period she was registered to vote in Clinton Township. With regard to petitioner’s “rewards” cards purportedly listing the subject property as her address, we note that copies of the cards were not made part of the record, the criteria for supplying an address were not submitted, and the dates of issuance were not supplied. Thus, those cards did nothing to establish petitioner’s occupancy of the subject property, and none of petitioner’s remaining evidence proved by a preponderance of the evidence that she actually occupied 7520 Hudson as her one true, fixed, and permanent home for the period at issue as required to receive a PRE.

The MTT’s decision was based on competent, material, and substantial record evidence, and thus the MTT acted within its authority when denying the PRE.

¹ Petitioner’s water was turned off because she objected to the installation of a “smart water meter” by respondent. We note that this shutoff did not occur until the autumn of 2012, *after* the observed usage of very small amounts of water.

Affirmed.

/s/ Kathleen Jansen
/s/ Patrick M. Meter
/s/ Jane M. Beckering

EXHIBIT D

Unpublished opinion

Spranger v City of Warren

August 25, 2016

Court of Appeals

No. 326964

Proposed Counter-Complaint

2017-2261-CZ

STATE OF MICHIGAN
COURT OF APPEALS

KAREN SPRANGER,

Petitioner-Appellant,

v

CITY OF WARREN,

Respondent-Appellee.

UNPUBLISHED

August 25, 2016

No. 326964

Tax Tribunal

LC No. 00-440727

Before: OWENS, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Petitioner Karen Spranger appeals by right the judgment of the Michigan Tax Tribunal (MTT) on remand that denied her request for a poverty exemption from 2012 property taxes on residential property in the city of Warren. For the reasons discussed below, we affirm.

I. FACTUAL AND PROCEDURAL HISTORY

Petitioner submitted a City of Warren Poverty Exemption Application to the respondent's board of review, but petitioner did not list specific amounts of income on the application. Respondent scheduled a special hearing on petitioner's application, but petitioner did not attend because respondent failed to provide her with notice of the hearing. Respondent's review board denied the petitioner's request as incomplete, and she appealed to the MTT where she attempted to introduce additional evidence. However, respondent successfully objected because the evidence had not been presented to the board of review. The MTT concluded that petitioner's qualification for the poverty exemption could not be determined. Petitioner then appealed to this Court, which held that respondent had denied the petitioner her constitutional right to due process by failing to provide her with notice of her special hearing date and by failing to afford her a meaningful opportunity to be heard. *Spranger v City of Warren*, 308 Mich App 477, 484; 865 NW2d 52 (2014) (*Spranger I*). This Court reversed the decision of the board of review, vacated the judgment of the MTT, and remanded to the MTT for de novo consideration of petitioner's request for a poverty exemption. *Id.* at 485. This Court directed the MTT to "provide petitioner with notice and a meaningful opportunity to be heard, allow petitioner to supplement her original application, and permit petitioner to present evidence and testimony regarding her income, assets, and qualifications for the exemption." *Id.*

The MTT scheduled a hearing on petitioner’s application for April 13, 2015. On March 12, 2015, this Court issued *Spranger v City of Warren*, unpublished opinion per curiam of the Court of Appeals, issued March 12, 2015 (Docket No. 319273) (*Spranger II*). At issue was the denial of petitioner’s request for a 2012 tax year principal residence exemption (PRE) for the same property in the city of Warren. This Court determined that petitioner “failed to provide competent, material, and substantial evidence to prove by a preponderance of the evidence that she actually occupied [the property] as her one true, fixed, and permanent home for the period at issue as required to receive a PRE.” Unpub op at 2. This Court held that the MTT’s denial of the PRE was based on competent, material, and substantial record evidence and affirmed its denial of petitioner’s request for a PRE. *Id.* at 3.

On March 26, 2015—before the scheduled date for the rehearing in the instant case—the MTT entered an order granting summary disposition under MCR 2.116(I)(1)¹ in favor of respondent. The MTT recognized that this Court had remanded the case for further proceedings in *Spranger I*. But the MTT reasoned that allowing petitioner to present additional evidence would be “irrelevant” because this Court in *Spranger II* determined that petitioner did not occupy the subject property as a principal residence, which was a required precondition not only for the PRE but also for the poverty exemption at issue. The MTT explained that the definition of principal residence was the same for the PRE and poverty exemption, and held that the doctrine of collateral estoppel precluded relitigation of that issue. This appeal ensued.

II. STANDARD OF REVIEW

“In the absence of fraud, review of a decision by the Tax Tribunal is limited to determining whether the tribunal erred in applying the law or adopted a wrong principle; its factual findings are conclusive if supported by competent, material, and substantial evidence on the whole record.” *Mich Bell Tel Co v Dep’t of Treasury*, 445 Mich 470, 476; 518 NW2d 808 (1994).

III. ANALYSIS

Petitioner contends that the MTT improperly denied her request for a poverty exemption to her property taxes. Petitioner asserts that the MTT erred because a taxpayer need not qualify for a PRE in order to qualify for the poverty exemption. But the MTT did not determine that petitioner did not qualify for the poverty exemption because she did not qualify for a PRE. Instead, it determined that she did not qualify for the poverty exemption because she did not occupy the subject property as her principal residence.

¹ “If the pleadings show that a party is entitled to judgment as a matter of law, or if the affidavits or other proofs show that there is no genuine issue of material fact, the court shall render judgment without delay.”

To be eligible for a poverty exemption under MCL 211.7u, a petitioner must, among other requirements, “[b]e an owner of and occupy as a principal residence the property for which an exemption is requested.” MCL 211.7u(2)(a). MCL 211.7u(7) provides that for the purposes of the poverty exemption, the term “principle residence” is found in MCL 211.7dd, which defines a principle residence as “the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.” MCL 211.7dd(c). Notably, the definition of principal residence in MCL 211.7dd(c) is used to define that term for the purposes of the PRE found in MCL 211.7cc. See MCL 211.7dd and cc.

In the case now before the Court, the MTT determined that collateral estoppel prevented petitioner from relitigating the issue of her occupancy of the subject property as a principal residence because that issue was determined in *Spranger II*. Collateral estoppel “requires that (1) a question of fact essential to the judgment was actually litigated and determined by a valid and final judgment, (2) the same parties had a full and fair opportunity to litigate the issue, and (3) there was mutuality of estoppel.” *Estes v Titus*, 481 Mich 573, 585; 751 NW2d 493 (2008). Mutuality of estoppel “requires that in order for a party to estop an adversary from relitigating an issue that party must have been a party, or in privity to a party, in the previous action.” *Monat v State Farm Ins Co*, 469 Mich 679, 684; 677 NW2d 843 (2004).

In *Spranger II*, this Court determined that petitioner failed to demonstrate that during the 2012 tax year she “actually occupied [the property] as her one true, fixed, and permanent home for the period at issue as required to receive a PRE.” *Spranger II*, unpub op at 2. Therefore, the *Spranger II* Court specifically addressed petitioner’s occupancy of the subject property as a principal residence under MCL 211.7dd(c). Indeed, petitioner’s occupancy of the property was the subject of the appeal and was essential to the outcome of the case. *Id.* Thus, this Court determined the question of occupancy in a valid and final judgment.² Further, the parties had a full and fair opportunity to litigate the issue and there was no indication in *Spranger II* that petitioner was deprived of due process of law. Finally, mutuality of estoppel existed because the parties in *Spranger II* are the same as the parties now before the Court. Thus, the MTT properly determined that collateral estoppel prevented petitioner from relitigating the issue of occupancy of the subject property, which undermines her request for a poverty exemption. There is no indication that the MTT erred in applying the law or that it adopted a wrong principle.

Next, petitioner contends that the MTT erred by failing to allow her to present additional evidence pursuant to this Court’s opinion in *Spranger I*. Petitioner also contends that the MTT denied her due process of law. But petitioner abandoned both arguments by failing to brief their merits or cite any supporting authority. It is not sufficient for a party “simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority

² We note that petitioner did not appeal from this Court’s judgment in *Spranger II*.

either to sustain or reject his position.” *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). Accordingly, we need not address these claims and decline to do so.

Affirmed.

/s/ Donald S. Owens
/s/ David H. Sawyer
/s/ Douglas B. Shapiro

EXHIBIT E

City of Warren
water records

Proposed Counter-Complaint
2017-2261-CZ

7520 HUDSON Warren, MI 48091 (Property Address)

Parcel Number: 13-33-278-003 Location ID: HUDN-007520-0000-01

Item 1 of 2 [1 Image / 1 Sketch](#)**Customer Name: 202943446 OCCUPANT****Summary Information**

- > Residential Building Summary
 - Year Built: 1947
 - Full Baths: 1
 - Sq. Feet: 1,154
 - Bedrooms: 0
 - Half Baths: 0
 - Acres: 0.100
- > 4 Building Department records found
- > Assessed Value: \$15,900 | Taxable Value: \$13,040
- > 1 Special Assessment found
- > Property Tax information found
- > Utility Billing information found

History

Posted	Action	Other Info	Read Type	Read	Usage	Amount	Balance
7/11/2017	Bill Calculated	05/18/17-06/27/17		0.00	0.00	\$0.00	\$0.00
6/27/2017	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
6/13/2017	Bill Calculated	04/25/17-05/18/17		0.00	0.00	\$0.00	\$0.00
5/18/2017	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
5/12/2017	Bill Calculated	03/22/17-04/25/17		0.00	0.00	\$0.00	\$0.00
4/25/2017	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
4/11/2017	Bill Calculated	02/22/17-03/22/17		0.00	0.00	\$0.00	\$0.00
3/22/2017	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
3/14/2017	Bill Calculated	01/25/17-02/22/17		0.00	0.00	\$0.00	\$0.00
2/22/2017	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
2/9/2017	Bill Calculated	12/21/16-01/25/17		0.00	0.00	\$0.00	\$0.00
1/25/2017	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
1/10/2017	Bill Calculated	11/17/16-12/21/16		0.00	0.00	\$0.00	\$0.00
12/21/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
12/12/2016	Bill Calculated	10/24/16-11/17/16		0.00	0.00	\$0.00	\$0.00
11/17/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
11/13/2016	Bill Calculated	09/14/16-10/24/16		0.00	0.00	\$0.00	\$0.00
10/24/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
10/11/2016	Bill Calculated	08/17/16-09/14/16		0.00	0.00	\$0.00	\$0.00
9/14/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
9/13/2016	Bill Calculated	07/20/16-08/17/16		0.00	0.00	\$0.00	\$0.00
8/17/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
8/12/2016	Bill Calculated	06/22/16-07/20/16		0.00	0.00	\$0.00	\$0.00
7/20/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
7/12/2016	Bill Calculated	05/23/16-06/22/16		0.00	0.00	\$0.00	\$0.00
6/22/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
6/13/2016	Bill Calculated	04/27/16-05/23/16		0.00	0.00	\$0.00	\$0.00
5/23/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
5/12/2016	Bill Calculated	03/28/16-04/27/16		0.00	0.00	\$0.00	\$0.00
4/27/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
4/12/2016	Bill Calculated	02/29/16-03/28/16		0.00	0.00	\$0.00	\$0.00
3/28/2016	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
3/14/2016	Bill Calculated	01/27/16-02/29/16		0.00	0.00	\$0.00	\$0.00
2/29/2016	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
2/9/2016	Bill Calculated	12/28/15-01/27/16		0.00	0.00	\$0.00	\$0.00
1/27/2016	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
1/12/2016	Bill Calculated	11/24/15-12/28/15		0.00	0.00	\$0.00	\$0.00
12/28/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00

12/11/2015	Bill Calculated	10/26/15-11/24/15		0.00	0.00	\$0.00	\$0.00
11/24/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
11/10/2015	Bill Calculated	09/21/15-10/26/15		0.00	0.00	\$0.00	\$0.00
10/26/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
10/13/2015	Bill Calculated	08/27/15-09/21/15		0.00	0.00	\$0.00	\$0.00
9/21/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
9/13/2015	Bill Calculated	07/23/15-08/27/15		0.00	0.00	\$0.00	\$0.00
8/27/2015	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
8/11/2015	Bill Calculated	06/23/15-07/23/15		0.00	0.00	\$0.00	\$0.00
7/23/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
7/14/2015	Bill Calculated	05/27/15-06/23/15		0.00	0.00	\$0.00	\$0.00
6/23/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
6/11/2015	Bill Calculated	04/13/15-05/27/15		0.00	0.00	\$0.00	\$0.00
5/27/2015	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
5/12/2015	Bill Calculated	03/26/15-04/13/15		0.00	0.00	\$0.00	\$0.00
4/13/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
4/13/2015	Bill Calculated	02/23/15-03/26/15		0.00	0.00	\$0.00	\$0.00
3/26/2015	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
3/12/2015	Bill Calculated	01/28/15-02/23/15		0.00	0.00	\$0.00	\$0.00
2/23/2015	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
2/10/2015	Bill Calculated	12/26/14-01/28/15		0.00	0.00	\$0.00	\$0.00
1/28/2015	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
1/13/2015	Bill Calculated	11/25/14-12/26/14		0.00	0.00	\$0.00	\$0.00
12/26/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
12/11/2014	Bill Calculated	10/24/14-11/25/14		0.00	0.00	\$0.00	\$0.00
11/25/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
11/12/2014	Bill Calculated	09/26/14-10/24/14		0.00	0.00	\$0.00	\$0.00
10/24/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
10/14/2014	Bill Calculated	08/14/14-09/26/14		0.00	0.00	\$0.00	\$0.00
9/26/2014	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
9/11/2014	Bill Calculated	07/27/14-08/14/14		0.00	0.00	\$0.00	\$0.00
8/14/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
8/12/2014	Bill Calculated	06/25/14-07/27/14		0.00	0.00	\$0.00	\$0.00
7/27/2014	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
7/14/2014	Bill Calculated	05/23/14-06/25/14		0.00	0.00	\$0.00	\$0.00
6/25/2014	Meter Read	Water	Estimate	922.00	0.00	\$0.00	\$0.00
6/10/2014	Bill Calculated	04/03/14-05/23/14		0.00	0.00	\$0.00	\$0.00
5/23/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
5/13/2014	Bill Calculated	02/27/14-04/03/14		0.00	0.00	\$0.00	\$0.00
4/3/2014	Meter Read	Water	Auto Read	922.00	0.00	\$0.00	\$0.00
4/11/2014	Bill Calculated	02/02/14-02/27/14		0.00	0.00	\$0.00	\$0.00
4/3/2014	Meter Read Adj	Water	Estimate	922.00	-2.00	\$0.00	\$0.00
2/27/2014	Meter Read	Water	Auto Read	922.00	-2.00	\$0.00	\$0.00
3/11/2014	Bill Calculated	12/31/13-02/02/14		0.00	0.00	\$0.00	\$0.00
2/2/2014	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
2/11/2014	Bill Calculated	12/01/13-12/31/13		0.00	0.00	\$0.00	\$0.00
12/31/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
1/14/2014	Bill Calculated	11/03/13-12/01/13		0.00	0.00	\$0.00	\$0.00
12/1/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
12/10/2013	Bill Calculated	10/06/13-11/03/13		0.00	0.00	\$0.00	\$0.00
11/3/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00

11/9/2013	Bill Calculated	09/01/13-10/06/13		0.00	0.00	\$0.00	\$0.00
10/6/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
10/14/2013	Bill Calculated	08/04/13-09/01/13		0.00	0.00	\$0.00	\$0.00
9/1/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
9/10/2013	Bill Calculated	07/07/13-08/04/13		0.00	0.00	\$0.00	\$0.00
8/4/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
8/13/2013	Bill Calculated	06/02/13-07/07/13		0.00	0.00	\$0.00	\$0.00
7/7/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$0.00
7/12/2013	Bill Calculated	05/05/13-06/02/13		0.00	0.00	\$0.00	\$0.00
7/10/2013	Credit Transfer			0.00	0.00	\$0.00	\$0.00
6/25/2013	Bill Adjustment	PENALTY ADJUSTMENT		0.00	0.00	(\$1.66)	\$0.00
6/2/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$1.62
6/11/2013	Bill Calculated	04/07/13-05/05/13		0.00	0.00	\$0.00	\$1.66
6/7/2013	Penalty			0.00	0.00	\$0.04	\$1.66
5/5/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$14.23
5/14/2013	Bill Calculated	03/03/13-04/07/13		0.00	0.00	\$0.00	\$1.62
5/10/2013	Penalty			0.00	0.00	\$0.04	\$1.62
5/9/2013	Bill Adjustment	TAX LIEN		0.00	0.00	(\$12.65)	\$1.58
4/7/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$13.82
4/11/2013	Bill Calculated	02/03/13-03/03/13		0.00	0.00	\$0.00	\$14.23
4/9/2013	Penalty			0.00	0.00	\$0.41	\$14.23
3/3/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$13.42
3/11/2013	Bill Calculated	12/21/12-02/03/13		0.00	0.00	\$0.00	\$13.82
3/7/2013	Penalty			0.00	0.00	\$0.40	\$13.82
2/3/2013	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$13.03
2/11/2013	Bill Calculated	12/02/12-12/21/12		0.00	0.00	\$0.00	\$13.42
2/7/2013	Penalty			0.00	0.00	\$0.39	\$13.42
12/21/2012	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$12.65
1/14/2013	Bill Calculated	11/04/12-12/02/12		0.00	0.00	\$0.00	\$13.03
1/10/2013	Penalty			0.00	0.00	\$0.38	\$13.03
12/2/2012	Meter Read	Water	Estimate	924.00	0.00	\$0.00	\$52.39
12/11/2012	Bill Calculated	09/30/12-11/04/12		0.00	0.00	\$12.65	\$12.65
12/5/2012	Payment Posted	R12-664347		0.00	0.00	(\$52.39)	\$0.00
11/4/2012	Meter Read	Water	Estimate	924.00	2.00	\$0.00	\$38.60
11/13/2012	Bill Calculated	09/02/12-09/30/12		0.00	0.00	\$12.65	\$52.39
11/9/2012	Penalty			0.00	0.00	\$1.14	\$39.74
11/1/2012	Meter Read Adj	Water	Manual Read	922.00	-4.00	\$0.00	\$38.60
9/30/2012	Meter Read	Water	Manual Read	922.00	0.00	\$0.00	\$25.21
10/12/2012	Bill Calculated	08/05/12-09/02/12		0.00	0.00	\$12.65	\$38.60
10/10/2012	Penalty			0.00	0.00	\$0.74	\$25.95
9/2/2012	Meter Read	Water	Estimate	926.00	0.00	\$0.00	\$12.20
9/11/2012	Bill Calculated	07/01/12-08/05/12		0.00	0.00	\$12.65	\$25.21
9/8/2012	Penalty			0.00	0.00	\$0.36	\$12.56
9/1/2012	Payment Posted	R12-542166		0.00	0.00	(\$52.47)	\$12.20
8/5/2012	Meter Read	Water	Estimate	926.00	0.00	\$0.00	\$50.98
8/14/2012	Bill Calculated	06/03/12-07/01/12		0.00	0.00	\$12.20	\$64.67
8/9/2012	Penalty			0.00	0.00	\$1.49	\$52.47
7/1/2012	Meter Read	Water	Estimate	926.00	0.00	\$0.00	\$38.42
7/11/2012	Bill Calculated	05/06/12-06/03/12		0.00	0.00	\$12.20	\$50.98
7/9/2012	Penalty			0.00	0.00	\$1.10	\$38.78
7/5/2012	Penalty Reversal	INCORRECT PENALTY		0.00	0.00	(\$0.74)	\$37.68

6/28/2012	Penalty			0.00	0.00	\$0.74	\$38.42
6/3/2012	Meter Read	Water	Estimate	926.00	0.00	\$0.00	\$24.76
6/12/2012	Bill Calculated	04/01/12-05/06/12		0.00	0.00	\$12.20	\$37.68
6/7/2012	Penalty			0.00	0.00	\$0.72	\$25.48
5/6/2012	Meter Read	Water	Estimate	926.00	0.00	\$0.00	\$12.20
5/12/2012	Bill Calculated	03/04/12-04/01/12		0.00	0.00	\$12.20	\$24.76
5/9/2012	Penalty			0.00	0.00	\$0.36	\$12.56
4/1/2012	Meter Read	Water	Estimate	926.00	2.00	\$0.00	\$0.00
4/10/2012	Bill Calculated	02/05/12-03/04/12		0.00	0.00	\$12.20	\$12.20
3/28/2012	Payment Posted	R12-353410		0.00	0.00	(\$250.44)	\$0.00
3/4/2012	Meter Read	Water	Estimate	924.00	2.00	\$0.00	\$231.31
3/12/2012	Bill Calculated	12/30/11-02/05/12		0.00	0.00	\$12.20	\$250.44
3/7/2012	Penalty			0.00	0.00	\$6.93	\$238.24
2/5/2012	Meter Read	Water	Estimate	922.00	1.00	\$0.00	\$212.88
2/9/2012	Bill Calculated	11/30/11-12/30/11		0.00	0.00	\$12.05	\$231.31
2/7/2012	Penalty			0.00	0.00	\$6.38	\$219.26
12/30/2011	Meter Read	Water	Auto Read	921.00	0.00	\$0.00	\$194.98
1/10/2012	Bill Calculated	10/27/11-11/30/11		0.00	0.00	\$12.05	\$212.88
1/5/2012	Penalty			0.00	0.00	\$5.85	\$200.83
11/30/2011	Meter Read	Water	Auto Read	921.00	0.00	\$0.00	\$177.60
12/9/2011	Bill Calculated	10/02/11-10/27/11		0.00	0.00	\$12.05	\$194.98
12/6/2011	Penalty			0.00	0.00	\$5.33	\$182.93
12/6/2011	Meter Read Adj	Water	Estimate	921.00	-1.00	\$0.00	\$177.60
10/27/2011	Meter Read	Water	Auto Read	921.00	-1.00	\$0.00	\$160.72
11/9/2011	Bill Calculated	08/29/11-10/02/11		0.00	0.00	\$12.05	\$177.60
11/4/2011	Penalty			0.00	0.00	\$4.83	\$165.55
10/2/2011	Meter Read	Water	Estimate	922.00	2.00	\$0.00	\$144.33
10/10/2011	Bill Calculated	08/01/11-08/29/11		0.00	0.00	\$12.05	\$160.72
10/6/2011	Penalty			0.00	0.00	\$4.34	\$148.67
8/29/2011	Meter Read	Water	Auto Read	920.00	0.00	\$0.00	\$128.42
9/12/2011	Bill Calculated	06/29/11-08/01/11		0.00	0.00	\$12.05	\$144.33
9/9/2011	Penalty			0.00	0.00	\$3.86	\$132.28
8/1/2011	Meter Read	Water	Auto Read	920.00	0.00	\$0.00	\$113.71
8/15/2011	Bill Calculated	05/31/11-06/29/11		0.00	0.00	\$11.29	\$128.42
8/9/2011	Penalty			0.00	0.00	\$3.42	\$117.13
6/29/2011	Meter Read	Water	Auto Read	920.00	0.00	\$0.00	\$99.76
7/13/2011	Bill Calculated	05/02/11-05/31/11		0.00	0.00	\$11.29	\$113.71
7/8/2011	Penalty			0.00	0.00	\$2.66	\$102.42
5/31/2011	Meter Read	Water	Auto Read	920.00	0.00	\$0.00	\$85.89
6/15/2011	Bill Calculated	03/31/11-05/02/11		0.00	0.00	\$11.29	\$99.76
1/1/2000	Penalty			0.00	0.00	\$2.58	\$17.96
6/5/2011	Bill Adjustment	Conversion Balance		0.00	0.00	\$85.89	\$88.47
6/4/2011	Bill Adjustment	D		0.00	0.00	\$2.58	\$88.47
5/16/2011	Bill Calculated			0.00	0.00	\$11.29	\$85.89
5/9/2011	Bill Adjustment	LN		0.00	0.00	(\$162.94)	\$74.60
5/6/2011	Bill Adjustment	D		0.00	0.00	\$6.92	\$237.54
5/2/2011	Meter Read	Water	Actual	920.00	2.00	\$0.00	\$230.62
4/15/2011	Bill Calculated			0.00	0.00	\$11.29	\$230.62
4/8/2011	Bill Adjustment	D		0.00	0.00	\$6.39	\$219.33
3/31/2011	Meter Read	Water	Actual	920.00	2.00	\$0.00	\$212.94
3/16/2011	Bill Calculated			0.00	0.00	\$11.29	\$212.94

3/10/2011	Bill Adjustment	D		0.00	0.00	\$5.87	\$201.65
3/2/2011	Meter Read	Water	Actual	920.00	2.00	\$0.00	\$195.78
2/11/2011	Bill Calculated			0.00	0.00	\$11.29	\$195.78
2/7/2011	Bill Adjustment	D		0.00	0.00	\$5.37	\$184.49
2/3/2011	Meter Read	Water		921.00	2.00	\$0.00	\$179.12
1/14/2011	Bill Calculated			0.00	0.00	\$11.29	\$179.12
1/10/2011	Bill Adjustment	D		0.00	0.00	\$4.89	\$167.83
1/4/2011	Meter Read	Water	Estimate	919.00	2.00	\$0.00	\$162.94
12/14/2010	Bill Calculated			0.00	0.00	\$11.29	\$162.94
12/8/2010	Bill Adjustment	D		0.00	0.00	\$4.42	\$151.65
12/2/2010	Meter Read	Water	Actual	919.00	2.00	\$0.00	\$147.23
11/15/2010	Bill Calculated			0.00	0.00	\$11.29	\$147.23
11/9/2010	Bill Adjustment	D		0.00	0.00	\$3.96	\$135.94
10/28/2010	Meter Read	Water	Actual	918.00	2.00	\$0.00	\$131.98
10/14/2010	Bill Calculated			0.00	0.00	\$11.29	\$131.98
10/7/2010	Bill Adjustment	D		0.00	0.00	\$3.52	\$120.69
9/29/2010	Meter Read	Water	Actual	918.00	2.00	\$0.00	\$117.17
9/15/2010	Bill Calculated			0.00	0.00	\$11.29	\$117.17
9/9/2010	Bill Adjustment	D		0.00	0.00	\$3.08	\$105.88
8/30/2010	Meter Read	Water	Actual	918.00	2.00	\$0.00	\$102.80
8/16/2010	Bill Calculated			0.00	0.00	\$10.71	\$102.80
8/10/2010	Bill Adjustment	D		0.00	0.00	\$2.68	\$92.09
8/2/2010	Meter Read	Water	Actual	918.00	2.00	\$0.00	\$89.41
7/15/2010	Bill Calculated			0.00	0.00	\$10.71	\$89.41
7/10/2010	Bill Adjustment	D		0.00	0.00	\$2.29	\$78.70
7/1/2010	Meter Read	Water	Actual	918.00	2.00	\$0.00	\$76.41
6/15/2010	Bill Calculated			0.00	0.00	\$10.71	\$76.41
6/10/2010	Bill Adjustment	D		0.00	0.00	\$1.91	\$65.70
6/2/2010	Meter Read	Water	Actual	917.00	2.00	\$0.00	\$63.79
5/13/2010	Bill Calculated			0.00	0.00	\$10.71	\$63.79
5/6/2010	Bill Adjustment	D		0.00	0.00	\$1.55	\$53.08
5/3/2010	Meter Read	Water	Actual	917.00	2.00	\$0.00	\$51.53
4/20/2010	Payment Posted	P		0.00	0.00	(\$91.00)	\$51.53
4/15/2010	Bill Calculated			0.00	0.00	\$10.71	\$142.53
4/6/2010	Bill Adjustment	D		0.00	0.00	\$3.84	\$131.82
4/1/2010	Meter Read	Water	Actual	916.00	2.00	\$0.00	\$127.98
3/16/2010	Bill Calculated			0.00	0.00	\$10.71	\$127.98
3/10/2010	Bill Adjustment	D		0.00	0.00	\$3.42	\$117.27
3/3/2010	Meter Read	Water	Actual	916.00	2.00	\$0.00	\$113.85
2/11/2010	Bill Calculated			0.00	0.00	\$10.27	\$113.85
2/6/2010	Bill Adjustment	D		0.00	0.00	\$3.02	\$103.58
2/3/2010	Meter Read	Water	Actual	916.00	2.00	\$0.00	\$100.56
1/14/2010	Bill Calculated			0.00	0.00	\$10.27	\$100.56
1/8/2010	Bill Adjustment	D		0.00	0.00	\$2.63	\$90.29
1/6/2010	Meter Read	Water	Actual	915.00	2.00	\$0.00	\$87.66
12/15/2009	Bill Calculated			0.00	0.00	\$10.27	\$87.66
12/9/2009	Bill Adjustment	D		0.00	0.00	\$2.25	\$77.39
12/2/2009	Meter Read	Water	Actual	915.00	2.00	\$0.00	\$75.14
11/13/2009	Bill Calculated			0.00	0.00	\$10.27	\$75.14
11/6/2009	Bill Adjustment	D		0.00	0.00	\$1.89	\$64.87
10/29/2009	Meter Read	Water	Actual	915.00	2.00	\$0.00	\$62.98

10/15/2009	Bill Calculated			0.00	0.00	\$10.27	\$62.98
10/11/2009	Bill Adjustment	D		0.00	0.00	\$1.54	\$52.71
9/30/2009	Meter Read	Water	Actual	914.00	2.00	\$0.00	\$51.17
9/15/2009	Bill Calculated			0.00	0.00	\$10.27	\$51.17
9/3/2009	Bill Adjustment	D		0.00	0.00	\$1.19	\$40.90
8/31/2009	Meter Read	Water	Actual	914.00	2.00	\$0.00	\$39.71
8/13/2009	Bill Calculated			0.00	0.00	\$9.71	\$39.71
8/6/2009	Bill Adjustment	D		0.00	0.00	\$0.29	\$30.00
7/31/2009	Meter Read	Water	Actual	914.00	2.00	\$0.00	\$29.71
7/16/2009	Bill Calculated			0.00	0.00	\$9.71	\$29.71
7/8/2009	Bill Adjustment	D		0.00	0.00	\$0.29	\$20.00
7/2/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$19.71
6/15/2009	Bill Calculated			0.00	0.00	\$9.71	\$19.71
6/5/2009	Bill Adjustment	D		0.00	0.00	\$0.29	\$10.00
6/3/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$9.71
5/14/2009	Bill Calculated			0.00	0.00	\$9.71	\$9.71
5/4/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$0.00
4/22/2009	Payment Posted	P		0.00	0.00	(\$143.67)	\$0.00
4/15/2009	Bill Calculated			0.00	0.00	\$9.71	\$143.67
4/6/2009	Bill Adjustment	D		0.00	0.00	\$0.29	\$133.96
4/2/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$133.67
3/16/2009	Bill Calculated			0.00	0.00	\$9.71	\$133.67
3/5/2009	Bill Adjustment	D		0.00	0.00	\$0.46	\$123.96
3/4/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$123.50
2/12/2009	Bill Calculated			0.00	0.00	\$9.29	\$123.50
2/5/2009	Bill Adjustment	D		0.00	0.00	\$0.46	\$114.21
2/4/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$113.75
1/15/2009	Bill Calculated			0.00	0.00	\$9.29	\$113.75
1/8/2009	Bill Adjustment	D		0.00	0.00	\$0.46	\$104.46
1/6/2009	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$104.00
12/16/2008	Bill Calculated			0.00	0.00	\$9.29	\$104.00
12/8/2008	Bill Adjustment	D		0.00	0.00	\$0.46	\$94.71
12/3/2008	Meter Read	Water	Actual	913.00	2.00	\$0.00	\$94.25
11/13/2008	Bill Calculated			0.00	0.00	\$9.29	\$94.25
11/6/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$84.96
10/29/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$84.51
10/16/2008	Bill Calculated			0.00	0.00	\$9.02	\$84.51
10/7/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$75.49
9/30/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$75.04
9/15/2008	Bill Calculated			0.00	0.00	\$9.02	\$75.04
9/8/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$66.02
8/29/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$65.57
8/14/2008	Bill Calculated			0.00	0.00	\$9.02	\$65.57
8/5/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$56.55
7/31/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$56.10
7/16/2008	Bill Calculated			0.00	0.00	\$9.02	\$56.10
7/9/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$47.08
7/3/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$46.63
6/12/2008	Bill Calculated			0.00	0.00	\$9.02	\$46.63
6/5/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$37.61
5/24/2008	Meter Read	Water	Actual	912.00	2.00	\$0.00	\$37.16

5/15/2008	Bill Calculated			0.00	0.00	\$9.02	\$37.16
5/7/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$28.14
4/26/2008	Meter Read	Water	Actual	911.00	2.00	\$0.00	\$27.69
4/15/2008	Bill Calculated			0.00	0.00	\$9.02	\$27.69
4/8/2008	Bill Adjustment	D		0.00	0.00	\$0.45	\$18.67
3/28/2008	Meter Read	Water	Actual	911.00	2.00	\$0.00	\$18.22
3/13/2008	Bill Calculated			0.00	0.00	\$9.02	\$18.22
3/6/2008	Bill Adjustment	D		0.00	0.00	\$0.44	\$9.20
2/28/2008	Meter Read	Water	Actual	911.00	2.00	\$0.00	\$8.76
2/14/2008	Bill Calculated			0.00	0.00	\$8.76	\$8.76
1/31/2008	Payment Posted	P		0.00	0.00	(\$27.16)	\$0.00
1/31/2008	Meter Read	Water	Actual	911.00	2.00	\$0.00	\$27.16
1/16/2008	Bill Calculated			0.00	0.00	\$8.76	\$27.16
1/10/2008	Bill Adjustment	D		0.00	0.00	\$0.44	\$18.40
1/4/2008	Meter Read	Water	Actual	911.00	2.00	\$0.00	\$17.96

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EXHIBIT B

Attorney General's
Response Letter
dated
July 20, 2017

Motion for Leave to File Counter-Complaint
2017-2261-CZ

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212
LANSING, MICHIGAN 48909

BILL SCHUETTE
ATTORNEY GENERAL

July 20, 2017

Mr. Frank Krycia
Assistant Corporation Counsel
Macomb County
1 South Main St., 8th Floor
Mount Clemens, MI 48043

Dear Mr. Krycia:

This letter is in response to your July 11, 2017 letter requesting that Attorney General Bill Schuette initiate a quo warranto action against Macomb County Clerk Karen Spranger.

Under MCL 600.4501, the "attorney general shall bring an action for quo warranto when the facts clearly warrant the bringing of that action." A careful review of your letter and accompanying information reveals that this matter involves a local office and issues of a local nature that are best resolved at the county level.

The Attorney General, therefore, declines to institute the quo warranto action you have requested and leaves you to pursue whatever remedies may be available to you under the law. See MCL 600.4501 ("If the attorney general receives information from a private party and refuses to act, that private party may bring the action upon leave of court.").

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Moody".

Laura Moody
Chief Legal Counsel

EXHIBIT C

Unpublished opinion

Hylton v Wayne County Clerk

February 18, 2000

Court of Appeals

No. 213191

Motion for Leave to File Counter-Complaint

2017-2261-CZ

STATE OF MICHIGAN
COURT OF APPEALS

RAY ANTHONY ANDERSON and KENNETH N.
HYLTON, JR.,

UNPUBLISHED
February 18, 2000

Plaintiffs-Appellees,

v

No. 213191
Wayne Circuit Court
LC No. 98-816293-AW

WAYNE COUNTY CLERK,

Defendant-Appellee,

and

KEN HAYDEN a/k/a KENNETH HAYDEN, and
ROSEMARY PARKS,

Defendants,

and

LAMAR LEMMONS, JR.,

Defendant-Appellant.

Before: O’Connell, P.J., and Murphy and Talbot, JJ.

PER CURIAM.

Defendant-appellant (“appellant”) appeals as of right from an order granting plaintiff’s request for a writ of mandamus ordering the Wayne County Clerk to remove appellant’s name from an election ballot and enjoining appellant from holding himself out as a candidate in the election or accepting campaign contributions. We affirm.

Plaintiffs, who were candidates for the 1998 election to the state house of representatives, sought to compel the Wayne County Clerk to disqualify appellant from being a candidate in that election, alleging that he provided false information in his affidavit of identity. Appellant had listed an address on the affidavit that plaintiffs argued was not his residence. The trial court issued the writ,

ordering the clerk to remove appellant's name from the list of certified candidates. The court also enjoined appellant from holding himself out to the public as a candidate or from accepting or soliciting campaign contributions for the election.

Appellant argues that the trial court improperly granted the writ of mandamus. We review the decision whether to grant a writ of mandamus for an abuse of discretion. *In re MCI Telecommunications Complaint*, 460 Mich 396, 443-444; 596 NW2d 164 (1999). A writ of mandamus is an extraordinary remedy, whereby a court compels a public officer to perform a clear legal duty. *Lee v Macomb Co Bd of Comm'rs*, 235 Mich App 323, 331; 597 NW2d 545 (1999). The writ is properly issued where the plaintiff demonstrates that "(1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial in nature, and (4) the plaintiff has no other adequate legal or equitable remedy." *White-Bey v Dep't of Corrections*, ___ Mich App ___; ___ NW2d ___ (Docket No. 213395, issued 12/28/1999), slip op at 2.

Plaintiffs alleged that the address listed by appellant on his affidavit of identify was not his residence. Under MCL 168.558(1); MSA 6.1558(1), a candidate filing a nominating petition or a filing fee must also file an affidavit of identity, containing the candidate's name and address, among other information. Making a false statement in the affidavit is punishable as perjury. *Id.* The purpose behind the affidavit of identity is "to insist upon full and complete identification of candidates for public office in order to provide the electorate with the information necessary to cast their ballots effectively for the candidates of their choice." *Sullivan v Secretary of State*, 373 Mich 627, 631; 130 NW2d 392 (1964). Providing false information on an affidavit of identity does not further the purpose behind the statutory requirement. It is also punishable as a felony. Therefore, the providing of a false address on the affidavit of identity clearly does not constitute compliance with the statute.

Furthermore, MCL 168.558(1); MSA 6.1558(1) also provides that the clerk "shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section." Therefore, if appellant did not comply with the statute, the clerk owed a clear, non-discretionary legal duty to remove his name from the election ballot. Plaintiffs, as other candidates in the election, certainly had an interest in ensuring that only properly certified candidates were placed on the ballot. They had a clear legal right to the performance of the clerk's duty to certify only the names of candidates who complied with the statute. Due to the exigencies of an impending election, plaintiffs had no other adequate remedy at law or in equity. Therefore, if appellant provided a false address on the affidavit, the court properly issued the writ of mandamus.

Appellant argues that the trial court incorrectly determined that he provided a false address on the affidavit of identity. Appellant contends that it was improper for the court to employ the definition of "residence" contained in MCL 168.11(1); MSA 6.1011(1) in determining whether he provided a false address. MCL 168.11(1); MSA 6.1011(1) defines "residence" as "that place at which a person habitually sleeps, keeps his or her personal effects and has a regular place of lodging." However, the statutory definition expressly does not alter judicial interpretation of the term "residence." Appellant argues that the trial court should have used a judicial definition different from the statutory definition, but appellant does not identify exactly what definition should have been used. Indeed, our Court has

previously employed the statutory definition in examining an affidavit of identity. See *Gallagher v Keefe*, 232 Mich App 363, 372; 591 NW2d 297 (1998). The instant case is similar to *Gallagher*, where the defendant listed an address on her affidavit of identity that was not her residence, when she in fact resided in a different district. This Court held that she did not meet the residency requirement of MCL 46.411; MSA 5.359(11).

In any event, under any reasonable understanding of residency, plaintiffs presented substantial evidence that appellant did not reside at the address he listed on the affidavit of identity. Appellant listed 8500 E. Outer Drive, Detroit, as his address in the affidavit. The Detroit Police Department conducted an investigation into this address and determined that it was vacant. The owner of the property submitted an affidavit stating that he never received any payments of rent from appellant and that appellant did not enter into a lease until after the date the affidavit of identity was filed. Mail returned from the address as vacant was presented to the court. Phone records indicated that the phone number listed on the affidavit did not correspond to the address. Also, photographs of the address were admitted, showing a lack of evidence of habitation at the house. The front door was padlocked, the rear door was boarded up, some windows were broken, and there was no observable furniture. Moreover, appellant was later provided an opportunity to present documentation that he lived at the address listed on the affidavit, but he failed to appear with the documentation. Under these circumstances, the trial court properly concluded that the address listed on appellant's affidavit of identity was a false address. Therefore, the court did not abuse its discretion in issuing the writ of mandamus.

Appellant also argues that he was denied due process of law and his right to seek election to public office because he was not given adequate notice of the proceedings against him and was not provided an opportunity to be heard. However, appellant's candidacy for office was terminated pursuant to statutory authority. We also conclude that appellant was not denied due process.

In a civil case, due process "generally requires notice of the nature of the proceedings, an opportunity to be heard in a meaningful time and manner, and an impartial decisionmaker." *Cummings v Wayne Co*, 210 Mich App 249, 253; 533 NW2d 13 (1995). In this case, the record reflects that appellant received notice of the proceedings and was given an adequate opportunity to be heard. Service of process was made by mail to the address appellant listed on the affidavit of identity and by posting in the city-county building. Additionally, the record indicates that appellant's son was present at the initial hearing on June 10, 1998, where the court ordered the clerk to investigate the address. The record also indicates that appellant, or possibly his son, was present at the June 17, 1998 hearing where the court issued the writ of mandamus. Furthermore, appellant testified at a hearing for reconsideration that he did reside at the address listed on the affidavit. The court stated that, due to the equivocal nature of appellant's testimony, he would allow appellant to return the next day with documentation to show his residency. However, appellant failed to timely appear the next day, and his counsel withdrew the motion for reconsideration.¹

Appellant also argues that the writ of mandamus and injunction should not have been issued because there was no showing of fraud. However, the action as pleaded did not require a showing of fraud, but rather, only that plaintiffs had a clear legal right to the performance of a clear, non-

discretionary legal duty. Appellant's reliance on cases setting forth the elements of actionable fraud is therefore misplaced.

Finally, appellant argues that the trial court erred by enjoining him from holding himself out as a candidate and accepting or soliciting campaign contributions. Appellant contends that there was no showing of a danger of irreparable injury to merit injunctive relief. We review the trial court's decision whether to grant injunctive relief for an abuse of discretion. *Kernen v Homestead Development Co*, 232 Mich App 503, 509-510; 591 NW2d 369 (1999). We find no abuse of discretion in this case.

"Injunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Jeffrey v Clinton Twp*, 195 Mich App 260, 263-264; 489 NW2d 211 (1992). Injunctive relief may be appropriate in the context of election law, where the exigency of a pending election often renders any legal remedy inadequate. See, e.g., *Treasurer of the Committee to Elect Gerald D Lostracco v Fox*, 150 Mich App 617, 621; 389 NW2d 446 (1986). Here, the court did not abuse its discretion in enjoining appellant from holding himself out as a candidate or accepting campaign contributions. The court found that appellant's name should not be on the ballot and issued a writ of mandamus to remove his name from the ballot, resulting from appellant's failure to comply with the requirements of the affidavit of identity. The public policy behind this requirement is to provide complete and accurate information about candidates to the electorate. *Sullivan, supra* at 631. The court's injunction only assured that the electorate would not be misled about who the properly certified candidates were. Moreover, had appellant continued to hold himself out as a candidate, plaintiffs faced the danger of a loss of votes. This constitutes a real and imminent danger of irreparable injury. *Lostracco, supra* at 621. Because plaintiffs demonstrated "an actual or threatened invasion of [their] right to seek office in a fair election," an injunction was a proper remedy in this case. *Id.*

Affirmed.

/s/ Peter D. O'Connell

/s/ Michael J. Talbot

I concur in result only.

/s/ William B. Murphy

¹ Appellant contends on appeal that he was merely thirty minutes late for the hearing. However, appellant then waited two weeks before filing a motion for a new trial, informing the trial court of his reason for being late for the hearing.