

Madeiramessenger.com

July 19, 2016

*“The City of Madeira was deeded and assumed ownership of the “Hosbrook House” located at 7014 Miami Ave. and the “Muchmore House” located at 7010 Miami Ave. In addition to these two Properties, the city also has ownership of the historic Railroad Depot Located at 7701 Railroad Ave. These three important and historic Properties are to be preserved, protected, and left standing on the Same ground that the structures were built upon. These three historic Structures will be included in the “Historic District”.*

*Charter Amendment / Passed by a majority of Madeira electors, November 4, 2014*

*Scroll On.....*

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July 19, 2016

The history of events that led to the passage of Article XVI, amending the Madeira City Charter, have been well documented. Lies and Deceit, perpetuated by elected and appointed Madeira City Officials were reasons driving the petition effort, collecting signatures from residents, all for the preservation of several important historic properties in the center of Downtown Madeira. Miss Cleo J. Hosbrook gave to the city of Madeira, her former home, the Hosbrook House, and the former home of her Grandparents, the Muchmore House. There were many promises made to Miss Hosbrook. She was told that both houses would remain part of old, historic Downtown Madeira, one would house a museum, and both would be included in a park setting. Miss Hosbrook was told that the Railroad Depot would be used to serve, Madeira Senior Citizens. The elderly, trusting, Miss Hosbrook took our politicians, at their word.

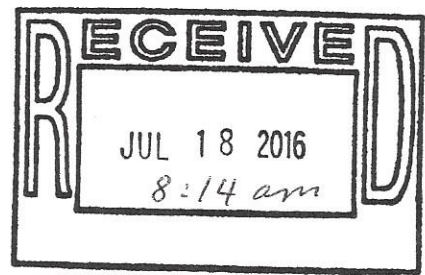
Our Politicians, City Manager, and Graydon Head & Ritchey Attorneys, Goodin and Fox, are hell bent on destroying the will of the people. Madeira electors, voted overwhelmingly in favor of amending our City Charter, creating a Madeira Historic District, for the purpose of assuring that Miss Hosbrook's vision would become reality, preservation and protection, guaranteed by our city, of the three Historic Properties. Our Council Members, have wasted an estimated \$100,000.00 in legal cost, and still spending, attempting to persuade a Hamilton County Judge that Developer, Thomas Powers, and possibly others, should be allowed to purchase city owned, Historic District Property. Are the attorneys willing to lie and deceive, in their quest to win for Developer, Thomas Powers, or others?, and let us not forget that Graydon Head & Ritchey Attorneys, Steven P. Goodin and Madeira Law Director, Brian Fox have been, or still are providing legal assistance to developer Thomas Powers, while also advising our council members. "This does

not meet the smell test”, to quote a Madeira City Council member. As you scroll down please review the following.....

- 1) Contract For Purchase - The Tax Payer gift, allowing Thomas Powers to build a restaurant with no parking, (was required to have 68 parking spaces) to never pay the Real Estate Tax's for the required parking lot. Cost to the tax payers estimated to be \$500,000.00. Notice, that the City Manager, will not provide Exhibits A Thru E, in spite of a Public Records Request. Review the related e-mails, and ask yourself, are we being deceived, this information is available.
- 2) Motion - Filed at the direction of seven Madeira Council members, the purpose of the motion, is to destroy the Historic District and relieve the seven council members of their responsibility, preserving and protecting the three historic properties. Graydon Head & Ritchey Attorney, Steven P. Goodin, has represented Developer Thomas Powers, in his effort to extort \$500,000.00 from Madeira Tax Payers and at the same time Goodin, along with our Law Director Brian Fox, (formally with Wood & Lamping) also of Graydon Head & Ritchey, sits in council chambers assisting client, Mr. Powers in the extortion effort. ( see Motions and filings on this Website)
- 3) Resolution number 10-14, Passed October 27, 2014. Truths, Lies, and Deceit. Please read the resolution.
- 4) Photos of appalling and unsafe conditions, at the Hosbrook House, including the porch, Handrails, and Steps. Our City Manager signed the lease, leasing the Hosbrook House to Mrs. Parker, knowing full well that the house was not safe for public use.

Please Scroll Down.....





CONTRACT FOR PURCHASE

This Contract for Purchase ("Contract") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date") and made by and between **Thomas M. Powers**, having an address of \_\_\_\_\_, (hereafter, "Seller" and upon the Closing of the purchase under this Contract between Seller and Purchaser, the "Company,") and **City of Madeira, Ohio, an Ohio municipal corporation**, 7141 Miami Avenue, Madeira, Ohio 45243 (hereafter, "Purchaser" under the following terms and conditions:

RECITALS:

A. Purchaser has determined it to be a public purpose for certain long-term strategic economic development and planning efforts to enter into this Contract with Seller and Company and to provide additional public parking spaces in the Central Business District, as generally depicted in Exhibit "A". Seller intends to make a good faith effort to preserve or create jobs and employment opportunities within the City Of Madeira, Ohio.

B. Seller will own certain real property (for which he is in negotiations to purchase, as more fully described below) consisting of approximately 11,500 square footage of land, (or that which is found to be the actual square footage by survey pursuant to Section 4), and Seller will sell to Purchaser a portion of it as set forth in Exhibit "B", being a portion of the land located at 7710 Railroad Avenue, Madeira, Ohio 45243, which portion being sold shall, in no event, exceed 6500 square feet, as more fully described in Section 4 below. The land to be sold to Purchaser is located in Hamilton County, Ohio and is generally described in Exhibit "C" attached hereto. Said land to be sold to Purchaser and all appurtenant rights, privileges, and easements thereto are sometimes hereinafter referred to separately and collectively as the "Property" and the "B & B Mower Service, Inc. ("B&B") Property."

C. Purchaser has determined that the agreements and transactions provided for in this Contract will facilitate positive long-term development planning and encourage development that will benefit the people of the City of Madeira, Ohio by increasing opportunities for employment and strengthening the economic welfare of the City of Madeira, Ohio.

D. Seller has been in negotiations with B&B to purchase the B&B Property, located at 7710 Railroad Avenue, Madeira, Ohio 45243 (the "B&B Property").

E. Seller and Purchaser acknowledge that Seller has committed to construct a restaurant on the B&B Property and that subject to Section 3 b below, Purchaser reserves the right to



A. Purchaser hereby certifies to Seller that Resolution No. 17-16 was passed by the City of Madeira, Ohio City Council, approving the execution of this Contract for the purchase of the Property, as set forth more specifically in the Resolution, subject to the Contingencies as more fully set forth in Sections 7 and 14 of this Contract and that Purchaser has full power and authority to execute, deliver and carry out the terms and provisions of this Contract and has taken all necessary action to authorize the execution, delivery and performance of this Contract. The individuals executing this Contract on behalf of Purchaser have the authority to bind Purchaser to the terms and conditions of this Contract. This Contract and all

documents required hereby to be executed by Purchaser, when so executed, shall be legal, valid, and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms, subject to the completion of any blank spaces and attachment of all approved Exhibits to the Contract. Purchaser is deemed to have made the certifications contained in this Section 3 again as of the time and date of the Closing, except that Purchaser shall not be in default hereof if any representation or warranty contained herein cannot be made at the Closing because of the acts or fault of Seller.

B. Purchaser hereby covenants with Seller that Purchaser shall only use the Property for a parking lot that is part of a larger City of Madeira owned parking lot with approximately 20 parking spaces located on it, so long as a restaurant is operating on the B&B Property, as depicted on the Project Site Plan, attached as Exhibit D ("Project."). The parking lot shall be built by Purchaser at Purchaser's sole cost and expense, to be completed by the earlier of one year from the Closing Date or when Seller has opened its restaurant for business (as described in Section 2(E)). Purchaser will coordinate the construction of the parking spaces with the construction of Seller's Project, (as depicted in Exhibit D) so that Purchaser's construction is complete when Seller's Project is complete and open for business. The City of Madeira, Ohio shall continue to operate and maintain a parking lot of at least 40-43 parking spaces; however, the location of the parking lot can be within the general parking area shown on the attached Exhibit E. There shall be no requirement for this parking area to be contiguous to the remainder of the B&B Property, and the parking area may be within a two block walking distance radius to the B&B Property.

#### **4. Purchase Price and Terms.**

A. The Purchase Price for all of the Property will be based on a price of \$38.00 per square foot for the +/- 6300 square feet for a total purchase price of approximately \$239,400. The Purchase Price shall be subject to final determination of the total square footage of the Property and shall be mutually agreed upon by Seller and Purchaser based on final survey and approved sub-division/cut-up plat materially consistent with the Site Plan set forth on Exhibit "D" attached hereto. Exhibit "D" provides an approximation of the 6300 square feet area described, as well as the approximate location of the public parking area. The parties agree Seller may change the square footage of the Property being sold hereunder and the drawings attached hereto as Exhibits, and Purchaser may agree to such changes in its good faith reasonable discretion.

B. There shall be no earnest money deposit payable from Purchaser to Seller.

C. In addition to the Conditions to Close set forth in Section 10, Purchaser's

F. Approval of Seller of its liquor license to be issued to Seller as required by the State of Ohio and City of Madeira, Ohio; and

6512131.2 G. Review and approval for capacity<sup>17</sup> by the Hamilton County Metropolitan Sewer District acceptable to Seller; and

H. Coordination of Project landscaping with requirements of the City of Madeira, Ohio acceptable to Seller; and

I. Any other approvals acceptable to Seller required and deemed necessary by the City of Madeira, Ohio Planning Commission for the Project.

J. Review and approval of Seller and Purchaser of Seller's environmental inspection of the Property, and review and approval of the reliance letter provided to Purchaser from the preparer of the report; all reviews and approvals to be in coordination with the City of Madeira Law Director.

During the term of the Contract, Purchaser and its representatives shall be entitled to enter on to the Property and to conduct such inspections thereon as Purchaser may deem appropriate in order to determine the suitability of the Property. Purchaser will keep the Property free and clear of any mechanic's or materialmen's liens, shall pay all expenses incurred, shall restore any damage to the Property caused by Purchaser or its agents.

8. **Closing ("Closing")** shall occur on a date to be mutually agreed upon by the parties following satisfaction of all of the Contingencies in Sections 7 and 14 as applicable, or on such other reasonable date as the parties may agree in writing.

A. Marketable title to the Property will be conveyed by Seller to Purchaser by general warranty deed at Closing, subject to easements and restrictions of record and any easements that existed prior to Purchaser's ownership of the Property and merged due to Purchaser's acquisition of the Property, as reflected in the Title Commitment, and as confirmed by Purchaser, which shall be required as the result of the new division of ownership between Purchaser as the owner of the Property and Purchaser as the beneficiary of the easements. At Closing, Seller shall execute any and all unplatted easements necessary to Purchaser for the Property, as required by Section 7 E and F, provided such easements were provided to Seller for review at least 20 days prior to Closing. Seller and Purchaser will also execute any other customary and appropriate closing documents at Closing. Title shall be conveyed subject to no monetary liens except for the lien for non-delinquent real property taxes, assessments, or improvement district liens, but otherwise subject to all matters of record as specified above.

B. The costs incurred in connection with the transaction contemplated by the Contract shall be allocated between Seller and Purchaser as follows:

<u>Requirement</u>	<u>Responsibility</u>
Survey-ALTA for B&B Property	Seller
Survey-Cut Up for Property described	<u>Seller &amp; Purchaser split</u>



date.

(ii) All of the terms, covenants and conditions to be complied with and performed by Purchaser on or prior to the Closing Date shall have been complied with or performed in all material respects.

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(iii) Purchaser shall have paid the Purchase Price as required herein.

(iii) All contingencies contained in Sections 7 and 14 are satisfied to Seller's satisfaction.

B. Conditions Precedent to Obligations of Purchaser. The obligations of Purchaser hereunder are subject to satisfaction, at or prior to the Closing, of each of the following conditions:

(i) Seller's successful closing and acquisition of the B&B Property.

(ii) The certifications of Seller made in Section 2 of this Contract shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date.

(iii) All of the terms, covenants and conditions to be complied with and performed by Seller on or prior to the Closing Date shall have been complied with or performed in all material respects.

(iii) Seller shall have delivered to Purchaser each of the documents, including any easements, and other items required to be delivered by Seller as reasonably required by the title company, and pursuant to this Contract.

(v) Seller shall have delivered title to Purchaser as required by Section

8.A.

(vi) All Contingencies contained in Section 7 and 14 are satisfied to Purchaser's Satisfaction.

**11. Delivery of Notice.** Any notice to be given hereunder shall be hand delivered, given by registered or certified mail (return receipt requested), or via electronic mail addressed to the party in question at the addresses appearing in the introductory paragraph of this Contract except as is otherwise expressly provided herein. The effective date of any such notice shall be the date on which such notice is delivered (in the case of hand delivery) or mailed (in the case of use of registered or certified mail) to such addresses or the date of actual receipt in any other case. Any address set forth herein may be changed by notice to the other party hereto.

A copy of any notice to Purchaser shall also be given to:

party the opportunity to review and comment upon the contents of the notice or other statement.

B. Gender. Words of any gender used in this Contract shall be held and construed to include any other gender, any words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

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C. Captions. The captions in this Contract are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part hereof.

D. Construction. No provisions of this Contract shall be construed by any court or other judicial authority against any party hereto by reason of such party's being deemed to have drafted or structured such provisions.

E. Entire Agreement. This Contract, including Exhibits "A" through "E" constitutes the entire contract between the parties hereto and supersede all prior understandings, if any, there being no other oral or written promises, conditions, representations, understandings or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either party. Any subsequent conditions, representations, warranties, or agreements shall not be valid and binding upon the parties unless in writing and signed by both parties.

F. Time is of the Essence. Time is of the essence in this transaction.

G. Recitals. The above-stated Recitals shall be an integral part of this Contract.

H. Original Document/Counterparts. This Contract shall be executed by both parties in counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

I. Governing Law. This Contract shall be construed, and the rights and obligations of Seller and Purchaser hereunder shall be determined, in accordance with the laws of the State of Ohio.

J. Non-Merger. In addition to any specific language of non-merger found in certain sections of this Contract, any provision hereof which by its terms would be performed after the Closing shall survive the Closing and shall not merge in the Closing or in the deed, except as specifically provided to the contrary herein.

K. Assignment. Seller, as the current Seller under his Agreement, shall have the right to assign all of Seller's rights and obligations under this Contract to an affiliated land holding Company created by Seller, intended to act as title holder for the Property, with Purchaser's approval not to be unreasonably withheld or delayed. Purchaser, Company and their affiliates shall be obligated under the terms of this Contract. Seller anticipates assigning his rights under this Contract to Swing Line Grill, LLC, an Ohio limited liability company, and



Exhibit A Depiction of Parking Spaces

17

6512131.2

Exhibit B Depiction for cut up of property/B&B Property

Exhibit C Legal Description for Property to be conveyed (to be determined by survey)

Exhibit D Project Site Plan

*City Manager is concealy this information.*

Exhibit E Depiction of Parking Area

**Exhibit A**

**Depiction of Parking Spaces To  
be determined**

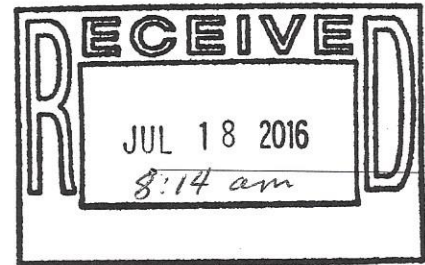
**Exhibit B**

**Depiction for cut up of property/B&B Property To  
be determined**

**Legal Description for Property to be conveyed (to be determined by survey) To be  
determined**

**Project Site Plan To  
be determined**

Mr. Thomas Moeller  
City Manager. City of Madeira



July 17, 2016

Mr. Moeller

Please reference section 149.43 of the Ohio Revised Code titled "Availability of public records, for inspection and copying" regarding the following request.

Contract for Purchase, received from your office Friday, July 15, 2016, and included with this request. Provide the following missing exhibits.

Exhibit A) Depiction of Parking Spaces.

Exhibit B) Depiction for cut up of property / B&B Property.

Exhibit C) Legal Description for Property to be conveyed (to be determined by Survey)

Exhibit D) Project Site Plan.


Exhibit E) Depiction of Parking Area.

Also provide a copy of the Madeira Planning Commission, July 18<sup>th</sup> 2016 agenda that included a request from Mr. Thomas Powers for final approval of the Swingline Grill, to be located in place of the vacant B&B Mower business. The copy requested, was deleted on the morning of, Friday July 15, 2016, and



replaced with an agenda that no longer included the Swingline Grill request. Include any e-mail, memo, or any other correspondence from any person requesting the removal of the Swingline Grill request, from the July 15, 2016 Madeira Planning Commission meeting, agenda. Persons should include, Mr. Thomas Powers, Mr. Brian Fox, Mr. Steven Goodin, any Madeira City Council member, or any Attorney employed at the Law Firm, Wood & Lamping, or employed at the Law Firm, Graydon Head & Ritchey LLP.

Thank you for your cooperation,

A handwritten signature in cursive script that reads "Douglas Oppenheimer".

Douglas Oppenheimer

consultdoug@cinci.rr.com

**Print**

Date: Tuesday, July 19, 2016 8:06 AM

From: Tom Moeller <TMoeller@madeiracity.com>

To: consultdoug@cinci.rr.com <consultdoug@cinci.rr.com>

Cc: Roccina S. Niehaus <RSNiehaus@WoodLamping.com>, Nancy Spencer <ccraignnancy@fuse.net>, N Spencer <NSpencer@madeiracity.com>, M Steur <MSteur@madeiracity.com>, Amanda Zimmerlin <AZimmerlin@madeiracity.com>, M Adrien <MAdrien@madeiracity.com>, 'tom.powers@cushwake.com' <tom.powers@cushwake.com>, T Ashmore <TAshmore@madeiracity.com>, T Theis <TTheis@madeiracity.com>, S Gehring <SGehring@madeiracity.com>, C Hilberg <CHilberg@madeiracity.com>

Subject: RE: 7/18 Planning Commission Agenda

Doug:

I will provide the documents/exhibits as soon as they are available in the appropriate form. The public "nature" of the documents is not contingent upon approval by the planning commission; I fully understand that. I do not believe I ever implied that they would not be provided until approved by the planning commission. Call me if you have any questions.

Thomas W. Moeller  
City Manager  
City of Madeira, Ohio  
7141 Miami Avenue  
Madeira, Ohio 45243

Office (513) 561-7228  
Fax (513) 272-4211

tmoeller@madeiracity.com

-----Original Message-----

From: consultdoug@cinci.rr.com [consultdoug@cinci.rr.com]  
Sent: Monday, July 18, 2016 11:40 PM  
To: Tom Moeller  
Cc: Roccina S. Niehaus; Nancy Spencer; N Spencer; M Steur; Amanda Zimmerlin; M Adrien; 'tom.powers@cushwake.com'; T Ashmore; T Theis; S Gehring; C Hilberg  
Subject: RE: 7/18 Planning Commission Agenda

Tom

Let me be clear, My request will be properly responded to, when you provide me with the following,

Exhibit:

- A) Depiction of Parking Spaces.
- B) Depiction for cut up of property / B&B Property.
- C) Legal Description for Property to be conveyed (to be determined by survey)
- D) Project Site Plan.
- E) Depiction of Parking Area.

Please be advised that my request is not contingent on the exhibits having Planning Commission Approval first. If this request can be fulfilled I would expect you to respond with the results.

Thank You in Advance

Douglas Oppenheimer



>  
> Exhibit D Project Site Plan.  
>  
> Exhibit E Depiction of Parking Area.  
>  
> Please let me know if the deleted information, Exhibit A thru E requires a  
Public Records Request or can you have the information available Monday.  
>  
> Thanks  
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> Doug  
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>  
> ---- Tom Moeller <TMoeller@madeiracity.com> wrote:  
> > Doug:  
> >  
> > Thanks for the voice message. An earlier version of the 7/18 agenda which  
included the final development plan for the Swing Line Grill was inadvertently  
uploaded. That agenda was prepared earlier in anticipation that they would have  
all of their application materials and plans in time. That project is now NOT  
on the agenda because the applicant was unable to complete their plans in time  
for the 7/18 meeting. They are now looking toward the August 15th meeting.  
Sorry for the confusion. Call me if you have any questions.  
> >  
> > Thomas W. Moeller  
> > City Manager  
> > City of Madeira, Ohio  
> > 7141 Miami Avenue  
> > Madeira, Ohio 45243  
> >  
> > Office (513) 561-7228  
> > Fax (513) 272-4211  
> >  
> > tmoeller@madeiracity.com  
> >

----- Tom Moeller <TMoeller@madeiracity.com> wrote:

> Doug:

>

> Per our conversation in my office this morning:

>

> The following information is provided in response to your public records request:

>

> Exhibit A: The final design/layout has not yet been approved by the Madeira Planning Commission and, potentially, the Madeira Historical Preservation Commission (if the parking lot impacts the Madeira Historic District). I am happy to provide to you the preliminary design that was submitted by the applicant at the June Planning Commission meeting (which I believe you already have in your possession). However, that submission may not be the final document that is Exhibit A.

>

> Exhibit B: We are awaiting the survey cut up from the surveyor. This will be submitted to the Planning Commission in August if it is completed by that meeting.

>

> Exhibit C: See explanation of Exhibit B. The surveyor will provide this information.

>

> Exhibit D: This is also subject to final approval by the Planning Commission. We intend to have this on the agenda for the August Planning Commission meeting.

>

> Exhibit of Parking Area: See Exhibit A explanation above. This differs slightly from Exhibit A because it is our intention to provide an overall scheme of the entire public parking lot, not just the parking associated with the property that the city intends to purchase from Mr. Powers. Again, this is subject to final approval of the Madeira Planning Commission and the MHPC, if necessary.

>

> Call me if you have any questions.

>

>

> Thomas W. Moeller  
> City Manager  
> City of Madeira, Ohio  
> 7141 Miami Avenue  
> Madeira, Ohio 45243

>

> Office (513) 561-7228  
> Fax (513) 272-4211

>

> tmoeller@madeiracity.com

>

> 1/2 hour

>

>

> -----Original Message-----

> From: consultdoug@cinci.rr.com [consultdoug@cinci.rr.com]

> Sent: Saturday, July 16, 2016 7:21 PM

> To: Tom Moeller

> Cc: Amanda Zimmerlin; M Adrien; C Hilberg

> Subject: Re: 7/18 Planning Commission Agenda

>

> Tom

>

> Thanks for sending me the "Contract For Purchase". I plan on dropping by Monday to pick up the following parts of the contract, that were not included with the contract that I received as an attachment.

>

> Exhibit A Depiction of Parking Spaces.

>

> Exhibit B Depiction of cut up of property / B&B Property.

>

> Exhibit C Legal Description for Property to be conveyed (to be determined by survey)



**COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO**

<b>CITY OF MADEIRA <i>ex rel.</i></b>	:	Case No. A-15-06891
<b>DOUGLAS OPPENHEIMER,</b>	:	
	:	<b>Judge Dinkelacker</b>
<b>Relator,</b>	:	
	:	
<b>v.</b>	:	<b>(ORAL ARGUMENT REQUESTED)</b>
	:	
<b>CITY OF MADEIRA, <i>et al.</i>,</b>	:	
	:	
<b>Respondents.</b>	:	

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**RESPONDENTS' MOTION FOR JUDGMENT ON THE PLEADINGS**

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Pursuant to Ohio Civil Rule 12(C), Respondents City of Madeira and Tom Moeller (collectively, “Madeira” or the “City”) hereby move this Court to grant declaratory judgment in its favor.

Article XVI of the Madeira City Charter seeks to preserve three buildings in the City. Unlike other historic preservation codes, Article XVI consists of just four sentences, each narrow in scope. The drafters of Article XVI included nothing to prevent Madeira from selling any of its property. On the contrary, the plain language of Article XVI provides only for the preservation of certain structures – and is silent as to whether they must remain in public hands. Thus, Madeira’s subsequent (and since abandoned) efforts to sell a piece of land next to one of these structures did not violate the Charter.

Relator’s Verified Complaint (and its incorporated exhibits) provides the relevant legislative history regarding Article XVI and Ordinance 15-30. Should the Court find it necessary to look beyond the plain language of Article XVI to consider its “spirit” and “intent,” these averments and exhibits inexorably lead to the same conclusion. Under either analysis, the

Court must – on the pleadings, and as a matter of law – grant declaratory judgment in favor of the City.

A Memorandum of Law in Support of this Motion and Proposed Order are attached hereto.

Respectfully submitted,

OF COUNSEL:

GRAYDON HEAD & RITCHEY LLP  
1900 Fifth Third Center  
511 Walnut Street  
Cincinnati, OH 45202-3157  
Phone: (513) 621-6464  
Fax: (513) 651-3836

/s/ Steven P. Goodin  
Steven P. Goodin (0071713)  
Brian W. Fox (0086851)  
*Attorneys for Defendant*  
GRAYDON HEAD & RITCHEY LLP  
1900 Fifth Third Center  
511 Walnut Street  
Cincinnati, OH 45202-3157  
Direct: (513) 629-2845  
Fax: (513) 651-3836  
sgoodin@graydon.com  
bfox@graydon.com



## MEMORANDUM IN SUPPORT

### **I. Introduction**

The matter before the Court constitutes a legal rarity on several counts.

First and foremost, this is the rare case in which the responding municipality has a more pressing need to have its rights and obligations adjudicated than does the Relator who originally petitioned this Court for declaratory judgment. The property in question is in limbo at present, and may remain so indefinitely pending resolution of this case. While Relator may argue that this controversy is moot to delay the subsequent sale of the land in question,<sup>1</sup> Madeira asserts that the question triggered by Relator's allegations in this case presents a classic scenario evading temporary review but capable of repetition. *State ex rel. Calvary v. Upper Arlington*, 89 Ohio St.3d 229, 231, 729 N.E.2d 1182 (2000), citing *Spencer v. Kemna*, 523 U.S. 1, 17-18, 118 S.Ct. 978, 140 L.Ed.2d. 43 (1998). In other words, Relator's arguments will be raised anew in a subsequent complaint whenever the next private citizen expresses even a hint of interest in purchasing any of the City's land or buildings. Therefore, Madeira respectfully requests the Court's determination on the merits at this time.

Secondly, the case at bar is a piece of "taxpayer" litigation in which the purported protector of the public trust – the Relator – seeks to waste taxpayer dollars litigating a matter on dubious grounds in which the facts are not in dispute. Given that the Verified Complaint and its incorporated exhibits set forth the relevant facts, Madeira respectfully submits that this dispute is ripe for resolution on the pleadings as they sit before Court today.

\* \* \*

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<sup>1</sup> For the purposes of this Motion, the Court may take judicial notice of the March 10, 2016 averments of counsel in court that the sales contract identified in Relator's Verified Complaint (and which was the subject of the controverted Ordinance) has been withdrawn.

Relator's arguments notwithstanding, Madeira Ordinance No. 15-30 (the "Ordinance") simply does not conflict with Article XVI of Madeira's City Charter ("Article XVI" or "Charter Amendment"). By its plain terms, Article XVI sets forth no provision, either express or implied, that would prevent the City from selling, leasing, or otherwise conveying any parcel under the City's ownership. Thus, Article XVI unambiguously allowed for the sale of a portion of the small vacant lot adjacent to this structure.

Given the lack of ambiguity in the Ordinance or Article XVI, there is absolutely no need for either party to adduce or proffer additional evidence. The matter is postured such that the Court can and should render a dispositive decision based upon the four corners of the Verified Complaint and the exhibits appended thereto. The taxpayers of Madeira need not finance lengthy depositions and paper discovery when the answer – in plain and unambiguous terms – lies in the legislative enactments already before the Court.

Even assuming *arguendo* that the Court does indeed find some ambiguity in these provisions, Madeira is nonetheless entitled to judgment on the pleadings. Relator's Verified Complaint includes factual averments which must, for the purposes of this Motion, be taken as true. Moreover, Relator has appended multiple official municipal documents which relate the relevant legislative history, as well as the City's previous interpretations of the provisions. For purposes of this Motion, these documents and averments provide the necessary factual predicate to resolve this dispute. Thus, even allowing for some theoretical ambiguity in the controverted language, the City is still entitled to judgment on the pleadings.

## **II. Standard of Review**

Given that Relator seeks a purely legal determination of his rights under the Charter Amendment – and that Madeira seeks a purely legal review of the matter as currently pled before the Court – a motion of judgment on the pleadings under Ohio Civil Rule 12(C) is the



appropriate – if not exclusive – vehicle to resolve this dispute. “After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings.” *Kallaus v. Allen*, 5th Dist. Licking No. 07CA0153, 2008-Ohio-5081, ¶ 12, citing *Peterson v. Teodosio* (1973), 34 Ohio St.2d 161, 165, 297 N.E.2d 113.

It is also well-established in Ohio courts that the same standard of review is to be applied to both Ohio Civil Rule 12(B)(6) and 12(C) motions. *Gawloski v. Miller Brewing Co.*, 96 Ohio App.3d 160, 162-163, 644 N.E.2d 731 (9th Dist. 1994). In applying Ohio Civil Rule 12(C), this Court should grant this Motion “where no material factual issue exists and the moving party is entitled to judgment as a matter of law.” *Amadasu v. O’Neal*, 176 Ohio App.3d 217, 2008-Ohio-1730, 891 N.E.2d 802, ¶ 5 (1st Dist.). Moreover, this Court must determine the merits of this Motion by reviewing the allegations of the pleadings, and construing material allegations in the Verified Complaint as true. *State ex rel. Pirman v. Money* (1994), 69 Ohio St.3d 591, 592-93. However, “unsupported conclusions of a complaint are \*\*\* not sufficient to withstand a motion to dismiss.” *State ex rel. Hickman v. Capots* (1989), 45 Ohio St. 3d 324, 324, 544 N.E.2d 639, 639; accord *Mitchell v. Lawson Milk Co.* (1998), 40 Ohio St.3d 190, 192–93, 532 N.E.2d 753 (noting that a complaint's facts, not its unsupported legal conclusions, should drive the Court’s analysis).

Ohio law is clear that judgment in this case would be appropriate if this Court: “(1) construes the material allegations in the [Verified Complaint], with all reasonable inferences to be drawn therefrom, in favor of [Relator] as true, and (2) finds beyond doubt, that [Relator] could prove no set of facts in support of his claim that would entitle him to relief.” *Kallaus v. Allen*, 5th Dist. Licking No. 07CA0153, 2008-Ohio-5081, ¶ 12, citing *State ex rel. Midwest Pride IV, Inc. v. Pontious* (1996), 75 Ohio St.3d 565, 570, 1996 Ohio 459, 664 N.E.2d 931.

Lastly, the Court is obligated to give the legislative enactments involved in this matter their common meaning, and to assume that such enactments express the intent of the municipality which passed them (absent some patent ambiguity). “The intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation.” *Horvath v. Ish*, 134 Ohio St.3d 48, 2012-Ohio-5333, 979 N.E.2d 1246, ¶ 10, quoting *Slingluff v. Weaver*, 66 Ohio St. 621, 64 N.E. 574 (1902).

After reviewing the Verified Complaint and related legislative enactments, this Court should find that Relator can prove no set of facts entitling him to stop the transaction authorized by the Ordinance, or any similar transaction contemplated in the future.

### **III. Statement of Undisputed Material Facts**

While the issue before the Court is primarily one of statutory interpretation – and, thus, one of law – the Court nevertheless may need to consider certain undisputed background facts.

Accepting for the purposes of this Motion the averments set forth in the Verified Complaint, several important facts emerge. On April 3, 1989, a private citizen transferred the Muchmore House and its adjacent land to the City of Madeira. Verified Complaint at ¶ 5. In November, 2014, the citizens of Madeira voted, via initiative, to create a “Historic District” which would include the Muchmore House and two other structures (the so-called “Hosbrook House” and the Railroad Depot). Verified Complaint at ¶¶ 6-7. This Charter Amendment is the so-called Article XVI which forms the basis of Relator’s claim for declaratory judgment. Relator alleges that he was a “leader” in the petition-drive initiative effort which resulted in the adoption of Article XVI. Verified Complaint at ¶ 9. It is also uncontroverted that Madeira City Council

passed Resolution No. 10-14 in opposition to the initiative – noting, *inter alia*, that the resulting Charter Amendment would lead to unnecessary litigation regarding the land. Verified Complaint at ¶¶ 10-11; *see also* Exhibit B.

On November 9, 2015, Madeira City Council adopted Ordinance 15-30 (the aforementioned “Ordinance”) which authorized a sales contract for the “vacant land” adjacent to the Muchmore House. Verified Complaint at ¶¶ 13-14; *see also* Exhibit C. Relator admits that neither the Ordinance nor the sales contract included the specific portion of the land to be sold. Verified Complaint at ¶ 15.

On November 30, 2105, Relator served a “taxpayer letter” on the City of Madeira Law Director objecting to the content of the Ordinance, and thus laying the groundwork for the instant litigation. Verified Complaint at ¶ 17.

#### **IV. Law and Argument**

The Madeira voters who approved Article XVI had no idea they were voting to end all development in their city’s growing central area or to otherwise curtail the City’s fundamental rights as a property owner. Instead, they voted – based upon the plain and unambiguous language of Article XVI – to “preserve” three specific structures, and to set up a special district to guide future development of those three specified properties. Relator asks this Court to read new terms and new meaning into this very simple provision. Ohio law demands that the Court decline to do so.

**A. *Given the lack of ‘patent ambiguity’ in either Article XVI or the Ordinance, Madeira is entitled to declaratory judgment in its favor.***

Under Ohio law, “absent some patent ‘ambiguity,’ a statute is to be applied without resort to the process of ‘statutory construction.’ Courts lack the authority to ignore the plain and unambiguous language of a statute under the guise of ‘judicial interpretation.’” *State v. Knox*,



10th Dist. Franklin No. 89AP-1168, 1991 Ohio App. LEXIS 2957, at \*4 (June 11, 1991), quoting *State v. Hix*, 38 Ohio St. 3d 129, 131 (1988) and *Board of Edn. v. Fulton County Budget Comm.*, 41 Ohio St. 2d 147, 156 (1973). Given that Article XVI and the Ordinance lack any patent or obvious ambiguity regarding whether Madeira may sell its duly-owned property, the Court need not – indeed *may* not – seek further guidance outside the provisions themselves.

The language of Article XVI could hardly be clearer or plainer. It contains no language which could ever be remotely construed as a restriction on the transfer of the properties described therein:

The City of Madeira was deeded and assumed ownership of the “Hosbrook House” located at 7014 Miami Ave. and the “Muchmore House” located at 7010 Miami Ave. In addition to these two properties the City also has ownership of the historic Railroad Depot located at 7701 Railroad Ave. These three important and historic properties are to be preserved, protected, and left standing on the same ground that the structures were built upon. These three historic structures will be included in the “Historic District”.

(Complaint, ¶ 7, emphasis added).

At most, Article XVI requires the owner of these properties to leave them standing – irrespective of who that owner may be. Article XVI is silent as to public ownership, and appropriately so – *most* historical properties, regardless of the process by which they were so designated, are owned by *private* entities. *See, e.g., Diocese of Toledo v. Toledo City-Lucas Cnty. Plan Comm'ns*, 6th Dist. Lucas Court of Appeals No. L-98-1150, 1999 Ohio App. LEXIS 868 (Mar. 12, 1999); *Holy Trinity Greek Orthodox Cathedral v. City of Toledo Plan Comm'n*, 6th Dist. Lucas No. L-06-1119, 2006-Ohio-6631 (cases in which private owners of Ohio historically-designated properties sought to ascertain their rights to demolish same). Thus, Relator’s repeated conclusory assertions that Article XVI contains some sort of unspoken public ownership requirement are baseless, unavailing and just plain wrong.

It is noteworthy that both the Relator and the plain language of Article XVI expressly concede that Madeira *owns* the structures and land in question. This concession is a significant one – as a property owner, Madeira possesses several distinct rights, including the fundamental right to alienation. *See, e.g., Anderson v. Cary*, 36 Ohio St. 506, 1881 LEXIS 226 (1881) (under Ohio law, *ex post facto* deed restrictions are “repugnant” to fee simple estates). Even if Madeira voters could have theoretically curtailed this fundamental right via initiative, they would have been required to do so expressly as constraints upon municipalities cannot be imposed by mere inference. *See, e.g., State ex rel. Horvath v. State Teachers Retirement Board* (1998), 83 Ohio St.3d 67, 76, 697 N.E.2d 644, 654 (holding that municipalities may only be bound by express language).

A review of the “home rule” provisions in the Ohio Constitution and Madeira City Charter offers further – and conclusive – support for Madeira’s inherent right to sell any property in its possession. “The power to convey property owned by a municipal corporation and no longer needed by it for municipal purposes is included within the \*\*\* powers of local self-government conferred by Article XVIII of the Ohio Constitution ...” *State ex rel. Leach v. Redick*, 168 Ohio St. 543; 157 N.E.2d 106 (1959). Article IV of the Madeira Charter clearly acknowledges and reserves these home-rule property rights for the City:

The Manager shall execute and deliver all contracts and make all purchases for the municipality, except franchise or public utility services. All contracts and purchases involving an expenditure for more than \$10,000 shall be authorized by ordinance of Council ... All contracts shall be approved as to form by the Solicitor before they are executed by the Manager.

Relator makes no allegation that the City acted outside its home rule and charter-enabled process in the attempted sale of the controverted property. Moreover, there is no provision in Article XVI which would even arguably repeal or curtail this fundamental right. Irrespective of the



“historical” designation now accorded these properties, there can be no serious argument that Madeira is proscribed from conveying them at will.

Even if the Court were to somehow construe this language as a constraint upon Madeira’s right to alienation, such a construction would necessarily be a narrow one. By its own terms, Article XVI applies only to the historical structures identified therein – and not to any adjacent land. It exclusively refers to two “houses” and a “depot” and further denominates the buildings as “historical *structures*.” (emphasis added) Moreover, the passage requires Madeira to protect and preserve “historic properties . . . left standing on the same ground that the structures were built on.” The terms “properties” and “structures” therefore must refer to the buildings themselves, as there would be no need to otherwise reference “the same ground” where it was built.

Even so construed, the Ordinance would not violate Article XVI. It authorizes the City Manager to sell only “a portion of the vacant land located . . . at 7010 Miami Avenue” — not the Muchmore House structure, the “ground” upon which it stands, or any of the other structures or “ground” protected by Article XVI. Ordinance No. 15-30, Section 1, attached to Verified Complaint as Exhibit C. The Ordinance is thus consistent with Article XVI – it neither threatens any historical structural nor abrogates the City’s duty to preserve and protect the Muchmore House.

As he led the petition-drive initiative effort resulting in Article XVI, Relator could have – with the stroke of a pen – included unambiguous language attempting to repeal Article IV. For reasons unknown (and irrelevant), he did not. The voters instead approved language which does not address the future sale of the properties and which clearly distinguishes between the structures and the land surrounding them. Accordingly, the Court need go no further in its



analysis. Under either construction, the Ordinance does not run afoul of Article XVI, and Relator's Verified Complaint is left without meaning or merit.

**B. *Even assuming some ambiguity for the sake of argument, the record still requires judgment in favor of Madeira.***

While Madeira strongly contends that the Court need only review the unambiguous provisions at issue, it would nonetheless welcome judicial review of – and the application of Ohio's canons of construction to – the legislative and interpretative record set forth in the Verified Complaint and its incorporated exhibits. Even under this analysis, the City remains entitled to judgment on the pleadings.

It must be preliminarily noted that, under Ohio's canons of construction, any ambiguity or vagueness must be construed against the drafter of the controverted provision. Either Relator wrote Article XVI, caused it to be written, or adopted it *ex post facto* as a leading proponent of the ballot initiative which placed it before Madeira voters. Accordingly, any ambiguities in Article XVI – including, but not limited to, the drafter's confusing use of the term "properties" – must inure to the benefit of Madeira, which had no role in drafting it. *Charles Behler Sons' Co. v. Ricketts*, 30 Ohio App. 167, 171 (1<sup>st</sup> Dist. 1928).

Moreover, the Court must also note that *none* of the relevant legislative enactments contain even a scintilla of evidence that *any* party intended to constrain the City's right to alienation *vis-à-vis* these buildings or the adjacent land. The record is utterly devoid of any such statement, query or consideration.

If the Court nonetheless finds some ambiguity in these provisions, the incorporated legislative documents still speak for themselves – and wholly undermine Relator's creative and self-serving constructions.

For instance, Relator seeks to obscure Madeira's distinct use of the terms "structures," "houses" and "properties" throughout its official documents. Each term is accorded a clearly delineated meaning, with "properties" clearly referring to "land." Relator nevertheless employs a selective quotation of Madeira Resolution No. 10-14 in Paragraph 12 of his Verified Complaint; deprived of its proper context, this quotation appears to incorrectly imply that Madeira City Council used the terms interchangeably. Note also his clever conflation of "Muchmore Property" with the "Muchmore House" in Paragraph 13 – an obvious effort to create the impression that Madeira viewed the "house" as a broader "property."

To Relator's credit, however, he appended the entirety of Resolution No. 10-14 to his Verified Complaint as Exhibit B. This resolution refers unambiguously to "two city-owned houses, along with – the Railroad Depot." Exhibit B at ¶4. Paragraph four likewise distinguishes between "the properties" (land) and "the buildings" (houses). This document affirms Madeira's conceptualization of these terms, and unmask Relator's quotations as cherry-picked and out-of-context.

Relator has little choice but to go down this path because Article XVI uses the terms "properties" and "structures" interchangeably and without regard for Madeira's prior usage: "These ... properties are to be preserved, protected and left standing on the same ground that the structures were built upon." In this context, the term "structures" relates back to the term "properties" and cannot be synonymous with "land" (as it was in the resolution). Given the grammatical structure of this sentence, Relator would have us believe that "properties" are to be preserved "on the same ground ... that they were built." Insert the word "land" for "properties," and the impossibility of a parallel construction becomes obvious. Relator's arguments in this regard amount to word games – nothing more and nothing less.



Relator will undoubtedly also argue that Resolution No. 10-14 constitutes a sort of “smoking gun” of adverse legislative intent inasmuch as the resolution acknowledges that Article XVI is “vague” in terms of what, precisely, it protects. Yet when the resolution is considered in its self-evident context, it sets forth no such contradictory intent.

By adopting Resolution No. 10-14, Council was grappling with the impossible-to-predict practical effects of Article XVI. In doing so, the councilmembers speculated that the Charter Amendment might be “vague” in two distinct respects. First, they posited whether it was “vague” in that it “references items not present within the City of Madeira” – a clear reference to the “Historic District” portion of Article XVI, which is not at issue for purposes of this construction. Verified Complaint at Exhibit C, ¶ 3. Second, the resolution notes that Article XVI is “vague” only inasmuch as it might arguably obligate the City to construct replicas of the structures should they be destroyed by *force majeure* (i.e., the meaning of the requirement to “preserve and protect” the structures indefinitely).

Relator’s selective reading of Resolution No. 10-14 aside, it manifestly does *not* constitute some sort of legislative admission that Article XVI is so vague and ambiguous that Relator’s subjective intent ought to determine its scope. The idea that Madeira would have entered into the sales agreement authorized by the Ordinance after *admitting* that the sale of the properties could be proscribed by Article XVI is mind-boggling, and runs counter to the position set forth in the City Solicitor’s response to Relator’s demand letters. The City’s position has always been clearly articulated – namely, that Article XVI does nothing to prevent the City from selling a portion of vacant land adjacent to those structures.

**C. *Sale of the Madeira properties would not violate the “spirit” of Article XVI.***

As noted *supra*, Relator pre-emptively cites to the purported “spirit” and “intent” of the Charter Amendment in Paragraph 15 of his Verified Complaint. This argument – clearly



designed to distract from the obvious construction of Article XVI adopted by the City – is likewise unavailing.

The “spirit” and “intent” of Article XVI is most clearly evinced in the distinct portion of the provision calling for a “Historic District.” On its face, it requires efforts to preserve and protect the three structures, *and* to more generally create an overlaying area focused on historic preservation. This “Historic District” is clearly meant to encompass the three protected structures as well as a larger, still-to-be-defined portion of the central Madeira business district – an area which would necessarily include numerous privately-owned properties. The inclusion of the “Historic District” concept provides further proof that the Madeira “historical” properties can be privately owned. Otherwise, there would have been no need to create a separate “District” – only the buildings could have been so designated.

Nothing about the sale of a portion of vacant land to a private citizen jeopardizes the City’s ability to implement the “Historic District,” or violates the “spirit” or “intent” of Article XVI that the buildings be “preserved” and “protected.” Despite Relator’s illogical construction of the enactment, the Charter Amendment does not operate as a legislative deed restriction indefinitely preventing the City from ever selling any of the land it owns. Thus, even if the Court were to find the controverted enactments to be ambiguous in some fashion, the incorporated legislative record nonetheless entitles Madeira to judgment on the pleadings.

**IV. Conclusion**

Article XVI simply does not proscribe Madeira's right to sell its property. Even if the Court were to find some ambiguity in its scant provisions, however, the legislative history incorporated into Relator's Verified Complaint conclusively supports to the City's construction. And even the most liberal construction would apply such a restriction to "structures" only, and not the land which was the subject of the Ordinance in question.

Accordingly, the City respectfully requests judgment on the pleadings in its favor on all claims. A Proposed Order is attached hereto.

Respectfully submitted,

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served upon the following via Regular U.S. Mail, postage prepaid, and by email on this 12<sup>th</sup> day of July, 2016 pursuant to Ohio R. Civ. P. 5(B)(2)(c):

Curt Hartman  
hartmanlawfirm@fuse.net  
3749 Fox Point Court  
Amelia, OH 45102

/s/ Steven P. Goodin  
Steven P. Goodin (0071713)

6483641.3



**COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO**

**CITY OF MADEIRA *ex rel.*  
DOUGLAS OPPENHEIMER,**

**Relator,**

**v.**

**CITY OF MADEIRA, *et al.*,**

**Respondents.**

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**Case No. A-15-06891**

**Judge Dinkelacker**

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**ORDER GRANTING  
CITY OF MADEIRA AND CITY MANAGER TOM MOELLER'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

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This matter is before the Court on the Motion of Respondents City of Madeira and Tom Moeller for Judgment on the Pleadings pursuant to Civil Rule 12(C). Having considered the record, including the memoranda submitted by counsel, this Court finds said Motion well-taken.

Under Ohio law, if a statute is unambiguous, a court need not go outside the plain language of the statute or resort to other means of interpretation. Here, Article XVI of the Madeira's City Charter, included in the Relator's Complaint, is unambiguous. The Article requires the City of Madeira to "preserve and protect" certain historical structures. The statute does not bar the sale or transfer of historical structures to a private citizen, nor does it require the City to preserve and protect the land surrounding certain historical structures. Therefore, Madeira Ordinance No. 15-30, that describes the sale of a vacant lot near a certain historical structure to a private citizen, does not conflict with Article XVI. Because there is no conflict, Relators Complaint must fail, and Respondents are entitled to judgment in their favor.

**IT IS HEREBY DECLARED:**

1. Respondents City of Madeira's and Tom Moeller's Motion for Judgment on the Pleadings is granted in its entirety.
2. Relator City of Madeira ex rel. Oppenheimer's Verified Complaint is hereby dismissed on its merits and with prejudice.
3. Article XVI of the Madeira Charter does not prohibit the City from selling, alienating or otherwise conveying any buildings, structures or real property within its possession.

**IT IS SO ORDERED.**

---

Judge Patrick T. Dinkelacker

**Submitted by:**

/s/ Steven P. Goodin

Steven P. Goodin (0071713)

Brian W. Fox (0086851)

*Attorneys for Defendant*

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**Distribution:**

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3749 Fox Point Court

Amelia, OH 45102

RESOLUTION NO. 10-14

A RESOLUTION IN OPPOSITION TO  
ISSUE 13 MADEIRA CHARTER AMENDMENT HISTORIC DISTRICT/PRESERVATION

WHEREAS, a petition was circulated to amend the Madeira City Charter to add Article XVI – Madeira Historic District / Preservation, and

WHEREAS, the proposed amendment to the Madeira City Charter is identified as Issue 13 on the November 2014 ballot, and

WHEREAS, The wording in Issue 13 is vague and references items not present within the City of Madeira which will cause confusion about requirements for the properties referenced, and may lead to expensive court challenges for years to come, and

WHEREAS, Issue 13 states that the two city-owned houses, along with the Railroad Depot will be added to “the Historic District” and no such district” exists in the City of Madeira code of ordinances or city policies, and

WHEREAS, Issue 13 will obligate the residents of Madeira preserve and maintain the properties and buildings indefinitely such that if one or more of the buildings sustains some form of significant structural damage, the vague language of proposed charter amendment may require construction of buildings that are merely historic replicas with little or no benefit to the community and which could result in expenses that put extreme pressure on how Madeira pays for basic services such as police, fire, roads, and parks, and

WHEREAS, The Madeira City Charter is a document that defines the governing principles of the city, much like the Constitution for the United States of America and, as such, it is not an appropriate vehicle for issues such as property management. These types of initiatives that do not focus on the governing operation of our city will only weaken our charter and lead to uncertainty and higher cost to our community, and

WHEREAS, This initiative is only the first step by special interest groups to assume control over the two houses and train station as language for a second charter amendment that would establish a five (5) person “Historical District Commission” has been presented to City Council; and special interest groups would hold a controlling four (4) seats on the Commission that will, “dictate the construction, remodeling, and other interior and exterior changes to the structures or grounds”. This unelected commission could impose significant unfunded mandated expenditures on the City of Madeira taxpayers.

yes, own  
city has  
cost 50,000+  
City Created  
District  
This is  
a true  
statement

gic

gic

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Madeira, Ohio

Section 1. That this Council hereby declares its strong opposition to Issue 13 and urges all Madeira voters to vote “NO” on Issue 13 on the November 2014 ballot.

Section 2. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

*This Resolution is not subject to referendum per Article XII, Section 3 of the Madeira Home Rule Charter.*

PASSED ON THE 27<sup>TH</sup> DAY OF OCTOBER, 2014 BY THE FOLLOWING 7-0 VOTE:

YEA:

- Melisa Adrien
- Tom Ashmore
- Ken Born
- Nancy Spencer
- Rob Steier
- Mike Steur
- Traci Theis

NAY:

ABSTAIN:

ABSENT:

Mike Steur, Mayor

Diane D. Novakov, Clerk of Council



Hobbes House Steps  
and Handrails - neglected!!



Horobrook House  
unsafe, but locked

To Mrs. Parker anything  
Census

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