



Attorneys at Law  
2055 Orchard Lake Road  
Sylvan Lake, Michigan 48320  
www.hsc-law.com

Main (248) 731-3080  
Fax (248) 731-3081

John D. Staran  
Direct (248) 731-3088  
jstaran@hsc-law.com

October 3, 2016

**VIA U.S. MAIL & E-MAIL**

Mr. Daniel D. MacLeish  
MacLeish Building, Inc.  
650 E. Big Beaver, Suite F  
Troy, MI 48083

***Re: City of Rochester Hills / Sanctuary In The Hills East Project***

Dear Mr. MacLeish:

Your proposed development project, Sanctuary In the Hills East, contemplates that the platted, but unimproved, public rights-of-way for two streets -- Dayton and a portion of Grant -- depicted and dedicated in the South Boulevard Gardens Subdivision plat will be vacated and abandoned. As you further know, the Rochester Hills Planning Commission has recommended to the City Council that your proposed Planned Unit Development for the Project be approved, subject to several conditions. Among those conditions is a requirement to enter into a hold harmless agreement with the City regarding the street vacations. That condition relates to an issue that you and I have communicated about several times. Specifically, there is a potential issue, based on Michigan case law and Attorney General Opinions,<sup>1</sup> that although the City has the power to resolve to abandon and vacate the platted, public streets, which will have the legal effect of terminating the City's and the public's interests in those platted rights-of way and cause ownership of the underlying property to attach to the adjoining lots within the plat, such action by the City will not necessarily extinguish any private right of access other lot owners in South Boulevard Commons may have, according to the aforesaid case law, to use the platted streets. The chance that another owner of property in the South Boulevard Gardens Subdivision may attempt to exercise or enforce any private right of access or mount a legal challenge to stop your Project from proceeding may not be likely. But, it nevertheless remains a technical possibility, and the only ways to fully preclude that possibility would be for you to obtain appropriate waivers/consents from the other property owners in the plat or to institute a plat revision proceeding in accordance with the Michigan Land Division Act.

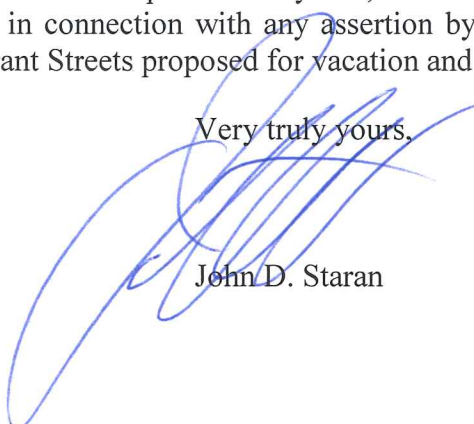
---

<sup>1</sup> See, for example, *Nelson v Roscommon County Road Cmn*, 117 Mich App 125, 132-133 (1982), and *OAG* 1954 no 1736.

October 3, 2016  
Page 2

So, with that background and understanding, and to satisfy the Planning Commission condition attached to their PUD approval recommendation, you are asked to acknowledge, through your signature below and return of a copy of this letter to me, that you have been advised of this possible private-access-right issue by the City, and that you agree to release and hold the City harmless, to the fullest extent permitted by law, from any claims you or any third party may have, arising from or in connection with any assertion by a third party of a private right of access over Dayton or Grant Streets proposed for vacation and abandonment by the City.

Very truly yours,



John D. Staran

\_\_\_\_\_  
Daniel D. MacLeish

Date: \_\_\_\_\_

JDS/ijd

cc: Ms. Sara Roediger, Planning Department (via. E-Mail)