

Sarah Karl

From: John D. Staran <jstaran@hsc-law.com>
Sent: Monday, March 7, 2022 5:11 PM
To: Sarah Karl
Subject: RE: City of Rochester Hills

This email was sent from outside of this organization. Please be cautious of links, attachments and special requests.

The City's Planning Director will be in contact with your client, but I think the City's position is that it is receptive to considering and having this project proceed as a permitted single family development project, but will, of course, need to have development plans submitted by your client for review and approval.



John D. Staran

2055 Orchard Lake Road
Sylvan Lake, MI 48320
(248) 731-3080 Fax (248) 731-3088
Direct (248) 731-3088
jstaran@hsc-law.com

www.hsc-law.com

Confidentiality Notice: This communication, including any attachments, is for the exclusive use of the intended recipient and may contain confidential and legally privileged information. If you are not the intended recipient, please promptly notify us by return email, permanently delete this email and any attachments, and destroy any printouts.

Treasury Circular 230 Disclosure: This communication is not intended or written to be used, nor may it be used or relied upon, by a taxpayer for the purpose of avoiding tax penalties that may be imposed under the Internal Revenue Code, as amended.

From: Sarah Karl <skarl@maglawpllc.com>
Sent: Friday, March 4, 2022 11:54 AM
To: John D. Staran <jstaran@hsc-law.com>
Subject: RE: City of Rochester Hills

Hi John,

I wanted to follow up with you and see how your review of this issue is coming along. Do you have any updates for me or any questions for my client?

Thank you,

Sarah

Sarah R. Karl
Makower Abbate Guerra Wegner Vollmer PLLC
30140 Orchard Lake Road

Farmington Hills, MI 48334

Phone: 248.254.7600

Direct: 248.671.0139

Fax: 248.671.0100

skarl@maglawpllc.com

<https://maglawpllc.com/>

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.

From: Sarah Karl

Sent: Wednesday, February 23, 2022 6:06 PM

To: John D. Staran <jstaran@hsc-law.com>

Subject: RE: City of Rochester Hills

Hi John,

I received the attached presentation from our client to provide details regarding how these homes will look and operate in the community as a whole. My client also wanted me to express the following points:

- They are not an "agency" that will manage these units like a group home. The residents will own these homes which they are **choosing** to live in with the intention of permanence for the occupant.
- Our IDD residents will bring with them the services they are already eligible for through the State. Agencies authorized by OCHN (the CMH of Oakland County) will deliver all direct care services, as they would for any other living situation, whether they are living with their parents, an apartment, a condo, or any other home they may choose to live in.
- Further, the Community Builder will not be responsible for direct care (that is OCHN's responsibility). The CB will provide community **integration** opportunities and be available as a first-responder in the event issues arise. The residents and their families, not OCHN, will pay for the CB.
- Last, our model is designed to have the parents deeply involved to make sure the IDD residents are successful.

Please let me know if there are any other questions I can assist with addressing.

Thank you,

Sarah

Sarah R. Karl

Makower Abbate Guerra Wegner Vollmer PLLC

30140 Orchard Lake Road

Farmington Hills, MI 48334

Phone: 248.254.7600

Direct: 248.671.0139

Fax: 248.671.0100

skarl@maglawpllc.com

<https://maglawpllc.com/>

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic

communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.

From: Sarah Karl
Sent: Monday, February 21, 2022 4:50 PM
To: John D. Staran <jstaran@hsc-law.com>
Subject: RE: City of Rochester Hills

Hi John,

Thanks for the follow up. I am actually following up with our client as well on this and the other questions you posed earlier today to ensure I am not misstating anything.

I believe the occupants of the dwelling would have rights to those common elements located in the dwelling. Those Common Elements would be Limited Common Elements that are limited in use to those units the Limited Common Elements are assigned to. Again, I will be confirming the same with our client.

Thanks, John, and I'll follow up with their confirmation.

Sarah

Sarah R. Karl
Makower Abbate Guerra Wegner Vollmer PLLC
30140 Orchard Lake Road
Farmington Hills, MI 48334
Phone: 248.254.7600
Direct: 248.671.0139
Fax: 248.671.0100
skarl@maglawpllc.com
<https://maglawpllc.com/>

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.

From: John D. Staran <jstaran@hsc-law.com>
Sent: Monday, February 21, 2022 1:00 PM
To: Sarah Karl <skarl@maglawpllc.com>
Subject: RE: City of Rochester Hills

This email was sent from outside of this organization. Please be cautious of links, attachments and special requests.

Sarah: One more question I neglected to ask you is about the condominiumization. Will the residents own only their individual living rooms/units, or will their ownership also include rights to the common elements comprising the rest of that building. Not sure I articulated that well, but hopefully you will understand.

Again, struggling with how to clearly distinguish between this project and a multifamily use. We do have multifamily condominium buildings as well as apartment buildings. So how is this project distinguishable from a multi-family condo building where the occupants own their individual units? Answer would seem to have to turn on the relationship among the residents and whether they are residing there independently or are they operating as a single housekeeping unit. That would seem to be key.



John D. Staran

2055 Orchard Lake Road
Sylvan Lake, MI 48320
(248) 731-3080 Fax (248) 731-3088
Direct (248) 731-3088
jstaran@hsc-law.com

www.hsc-law.com

Confidentiality Notice: This communication, including any attachments, is for the exclusive use of the intended recipient and may contain confidential and legally privileged information. If you are not the intended recipient, please promptly notify us by return email, permanently delete this email and any attachments, and destroy any printouts.

Treasury Circular 230 Disclosure: This communication is not intended or written to be used, nor may it be used or relied upon, by a taxpayer for the purpose of avoiding tax penalties that may be imposed under the Internal Revenue Code, as amended.

From: Sarah Karl <skarl@maglawpllc.com>
Sent: Thursday, February 17, 2022 3:25 PM
To: John D. Staran <jstaran@hsc-law.com>
Subject: RE: City of Rochester Hills

Hi John,

I wanted to follow up with you and see how your review of this issue is coming along. Do you have any updates for me or any questions for my client?

Thank you,

Sarah

Sarah R. Karl
Makower Abbate Guerra Wegner Vollmer PLLC
30140 Orchard Lake Road
Farmington Hills, MI 48334
Phone: 248.254.7600
Direct: 248.671.0139
Fax: 248.671.0100
skarl@maglawpllc.com
<https://maglawpllc.com/>

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication

appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.

From: Sarah Karl

Sent: Wednesday, February 2, 2022 2:44 PM

To: jstaran@hsc-law.com

Subject: RE: City of Rochester Hills

Hi John,

I wanted to follow up on our phone call from last week. Our client has confirmed that these Units for intellectually and developmentally disabled individuals will not be licensed through the State. Understanding that the City will need to review this proposed use further, I wanted to summarize our findings to assist you in your review. I apologize for the length, but as I indicated during our call, we have put in quite some time into analyzing the Ordinances and Condominium Act in our review with our client.

Section 138-4.200 of the Ordinances defines the purpose of "One-Family Residential" district as "to provide for one-family, low density dwelling sites and residentially related uses in keeping with the master plan of residential development in the City. The uses permitted by right and on special condition as conditional uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises."

The Ordinances include the following in its definition "Family":

A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition does not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

Under this definition of "Family," the focus is how these individuals relate with one another. The proposed ownership of the residences has the permanency required under this definition. Additionally, the home's amenities (living, cooking and sanitary facilities) are jointly shared by the occupants. Each room would have its own master bathroom, but all other areas of the home would be shared and lived in collectively.

Under the Ordinances, "Dwelling" is defined as, "A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating and sanitation." These occupants are not living independently of one another, but rather, they are collectively sharing in the home's responsibilities

We reviewed the subcategories of dwellings and these proposed dwellings are distinguishable from multifamily dwellings.

1. A "Single-Family Dwelling" is defined as, "A building designed exclusively for residential occupancy by not more than one family." As analyzed above, a family may include an unspecified number of unrelated individuals that have a relationship of residential permanence and who function as a single housekeeping unit.
2. "Apartment," is defined as, "A suite of rooms or a room in a multiple-family or commercial building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit." The distinction here is that the proposed residences will be used as single-family dwellings, the individual rooms are not structured to be an independent dwellings.

3. "Attached Dwelling" is defined as, "A dwelling unit attached to two or more dwelling units by common major structural elements." The Ordinances includes three types of attached dwelling units, but "Townhouse" would not apply to the proposed development of these residence.
 - a. "Apartment Building," includes, "A building divided into apartments and designed for residential occupancy by three or more families and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for three or more families with each floor having two means of egress, exclusive of an elevator." The distinction here is that this definition encompasses three or more families, whereas the use of these residences is to have the individuals living in each building operate as a single housekeeping unit, no different than 6 individuals leasing a single home together.
 - b. "Stacked Flats Building," which is defined as, "A type of attached dwelling unit building occupied by three or more families, where dwellings are divided by party walls in the horizontal plane and floor-ceiling assemblies in the vertical plane in an appropriate manner for multiple-family uses. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each property." Aside from the use of these buildings being single-family in nature, given the development of the Units and their close proximity to one another, will not be able to be completely separate from one another as the maintenance for the residences may require "trespass" onto the adjoining properties.
4. "Two-Family (Duplex) Dwelling" is, "A building designed exclusively for residential occupancy by two families, and arranged to provide separate kitchen and sleeping accommodations and sanitary facilities for each family." Similar to the definitions above, this definition relies upon there being two families in the building. Additionally, for this definition there must be separate kitchen, sleeping and sanitary facilities for each family. While the sleeping facilities are separate from one another, the other accommodations will be shared among the residents of the building, thereby distinguishing these residences from "Two-Family (Duplex) Dwellings."

For further consideration, MCL 559.241 provides that, "A condominium project shall comply with applicable local law, ordinances, and regulations. Except as provided in subsection (2), a proposed or existing condominium project shall not be prohibited nor treated differently by any law, regulation, or ordinance of any local unit of government, which would apply to that project or development under a different form of ownership." In other words, if this property was not a condominium unit but a residence with up to six unrelated people having a title interest, would its proposed use be acceptable under the Ordinances?

The proposed construction of these residences demonstrates that the occupants will be living as a single family housekeeping unit, as defined under the Ordinances. While each occupant would have an ownership interest in the property, that ownership alone should not be determinative of whether the use of the building is that of a single-family residence or a multiple family residence. It is similar to a home that may be deeded to several individuals, each having a 1/6th interest in the property. Ownership of the property would not, in and of itself, demonstrate the use was multi-family. Rather, based on the Ordinances, the analysis should focus on the use of the residence. Under the Act, simply because the property is established as a condominium should not affect how it is treated.

Thank you, John, and I will look forward to your follow upon once you have had a chance to review.

Sarah

Sarah R. Karl
Makower Abbate Guerra Wegner Vollmer PLLC
30140 Orchard Lake Road
Farmington Hills, MI 48334
Phone: 248.254.7600
Direct: 248.671.0139

Fax: 248.671.0100
skarl@maglawpllc.com
<https://maglawpllc.com/>

Out of Office Alert. I will be out of the office from Wednesday, February 9th through Friday, February 11th attending the CAI Law Conference. I will contact you upon my return to the office on Monday, February 14th.

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.

From: Sarah Karl
Sent: Monday, January 24, 2022 1:20 PM
To: jstaran@hsc-law.com
Subject: City of Rochester Hills

Hello John,

I just left you a voicemail and was hoping to discuss our client's proposed development in the City of Rochester Hills. Specifically, we are seeking confirmation that condominiumizing these properties is acceptable under the City's zoning ordinances for One-Family Residential. Please feel free to call me back at your convenience, or please let me know when it would be best for you to speak and I'll try to call then.

Thank you,

Sarah

Sarah R. Karl
Makower Abbate Guerra Wegner Vollmer PLLC
30140 Orchard Lake Road
Farmington Hills, MI 48334
Phone: 248.254.7600
Direct: 248.671.0139
Fax: 248.671.0100
skarl@maglawpllc.com
<https://maglawpllc.com/>

You should never transmit sensitive financial information in an email or other unsecured electronic method. Emails attempting to induce fraudulent wire transfers are common and may appear to come from a trusted source. If you receive any electronic communication directing you to transfer funds or provide sensitive financial information, even if that electronic communication appears to be from your attorney or Makower Abbate Guerra Wegner Vollmer PLLC, do not respond to it and do not proceed in accordance with any instructions contained in that communication; rather, immediately contact the party initiating the email by telephone via the firm's main line number of 248 254-7600.