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January 21, 2010

Historic District Study Committee
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309
Attention: Mr. Jason R. Thompson, Chairperson

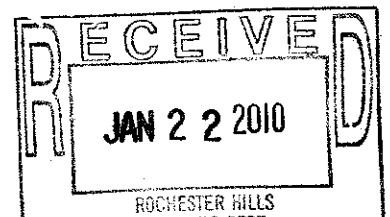
Re: *E-Mail Communications Among HDSC Members*

Dear Chairperson Thompson:

You have asked me to advise, in writing, the Historic District Study Committee members about the legality of e-mail communications among members. Your request was prompted by HDC member John Dziurman's January 19, 2010 e-mail message (copy enclosed) to Judy Bialk and HDSC members.

Last week, I advised Deputy City Planning Director Derek Delacourt about e-mail communications among Historic District Commission members. I understand Derek shared that advice with HDC members at last Thursday's HDC meeting. We need to be careful not to run afoul of Open Meetings Act ("OMA") requirements by allowing e-mail communications to take the place of a "meeting." Board and committee members must avoid engaging in e-mail communications that substitute for discussion or deliberation at an open meeting of the board or committee. OMA requirements do not prohibit board members from distributing e-mail information that does not require or invite a response. In other words, using e-mail as a means to transmit information to members of the board for their review does not necessarily constitute a meeting or run afoul of the OMA. However, sequential e-mail's or debate or active exchange of information and opinions by e-mail may be construed as intent to deliberate and discuss board business - which should only be done at an open meeting.

Another concern is that the HDC and the HDSC are administrative boards, not legislative bodies. The law affords some latitude to members of a legislative body to contact and lobby their fellow members to solicit their support. However, that is not true for administrative boards and committees. Administrative board members are expected to deliberate and act as a board and to conduct their debate, deliberations and decision-making at an open meeting based on information presented to them. It is not appropriate for an administrative board member to attempt to lobby or persuade a fellow board member to take a particular position by e-mail, separate discussion or any other means outside of an open meeting.



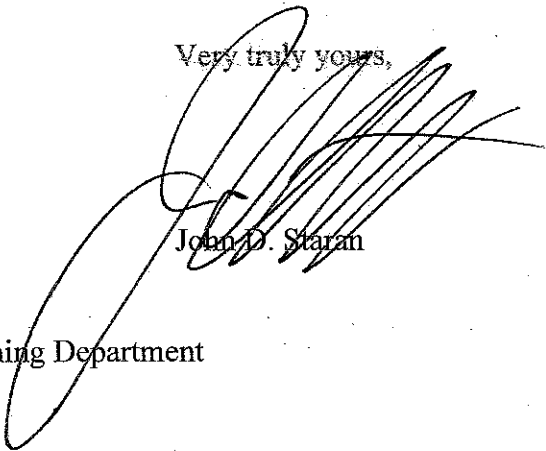
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In regard to Mr. Dziurman's e-mail message to the HDSC members, I think it comes very close to being a prohibited communication. Although it does provide information and does not directly invite response, it goes beyond that to express opinion and comments which, regardless of merit, may be characterized as deliberative. In view of the OMA and the administrative character of the HDC and HDSC, I recommend that comments of this nature regarding matters pending before HDC or HDSC should more appropriately be expressed at an open meeting of the board and not by e-mail or other means outside of an open meeting. It is also advisable for members who want to share information with the board to do so by sending such information to the City's staff liaison for distribution or inclusion in the meeting packet, rather than directly or separately transmitting it to other board members.

Very truly yours,



John D. Staran

JDS/ijd

cc: Mr. Derek Delacourt, Planning Department
Mayor Bryan K. Barnett