

**IN THE 12TH JUDICIAL CIRCUIT COURT
WILL COUNTY, ILLINOIS**

HOMER TOWNSHIP , et al.,)	
)	
Plaintiffs,)	
v.)	2020 CH 808
)	
VILLAGE OF HOMER GLEN ,)	
an Illinois municipal corporation, the)	
HOMER TOWNSHIP ROAD)	
DISTRICT , an Illinois special district,)	
MIKE DE VIVO , in his official capacity)	
as Homer Township Road District)	
Highway Commissioner,)	
)	
Defendants.)	

**PLAINTIFFS’ MOTION FOR A
PRELIMINARY INJUNCTION**

The Plaintiffs, by and through their attorneys Ancel Glink, P.C., move for a Preliminary Injunction against the Village of Homer Glen (“Village”), Homer Township Road District (“Road District”) and Mike DeVivo (“DeVivo”) (the Village, Road District and DeVivo are collectively, the “Defendants”). In support thereof, the Plaintiffs state as follows:

I. INTRODUCTION

The Defendant Village of Homer Glen (“the Village”) and the Defendant Homer Township Highway Commissioner, Michael DeVivo (“DeVivo”) made a deal that DeVivo will essentially “gift” the Road District’s assets to the Village so that the Village can have a public works building, equipment and property without having to levy taxes on Homer Glen residents to create one. In exchange, the Village would employ DeVivo, so he would not have to seek reelection as Highway Commissioner and risk losing. While there are many ways that Illinois local governments can engage in intergovernmental cooperation, simply dissolving a road district by giving to another governmental body, with complete disregard of the fact that the assets being transferred were paid

for, in part, by taxpayers other than residents of Homer Glen, is not one of them. Further, there is a way that the Road District may be legally dissolved, but the Village and Road District are not following the statutory procedure to do so because it requires voter approval that they know will not be forthcoming. Instead, the Village and DeVivo are trying to force this transaction through in what they are calling a “transfer of stewardship,” which they are pushing to occur on March 31, 2021, a few days before the April 6, 2021 consolidated election, because they know it will not be supported by DeVivo’s successor. For all the reasons below, the excoriation of the Road District in this manner is not permitted by law. The Township, the Township Supervisor and several taxpayers have filed the instant lawsuit to stop this “gifting.” The court should enter a preliminary injunction in this matter to enjoin the Village, DeVivo and the Road District from giving the Road District’s assets to the Village until such time as the Court has had the opportunity to address the merits of this case.

II. BACKGROUND

The Village of Homer Glen (“Village”) was incorporated on the premise that it would never assess a municipal property tax upon its residents.¹ As a result, the Village lacks funding to provide vital operations for certain common services, such a public works department. The Village, instead, has been contracting with the Homer Township Road District to provide services for far less than what it would cost to provide those services directly by the Village. Because of the way property tax laws work, this was accomplished by the Road District imposing a tax and with the Road District retaining those funds that would otherwise be distributed by law to the Village and with tax dollars received from non-Homer Glen sources funding the difference.

¹ The facts alleged in this Motion are the same as the facts alleged in the Plaintiffs’ First Amended Complaint. They are supported by Affidavit of Township Supervisor Pam Meyers, which is attached to the First Amended Complaint. As the Affidavit supporting the factual allegations in this motion is already in the court’s record, we are not submitting the exact Affidavit again. As Defendants have moved for summary judgment on Plaintiffs’ original complaint, which essentially alleges the same facts, presumably they agree with these facts and there are no material factual issues in dispute.

Late last summer, the Village President of Homer Glen, Mayor George Yukich, informed Homer Township Supervisor/Road District Treasurer Pam Meyers that it was going to seize the assets (equipment and real property) of the Homer Township Road District (“the Road District”) and that it had convinced the Township’s Highway Commissioner, Mike DeVivo, to simply give such assets to the Village through a transfer of “stewardship,” which is a term that the Village made up -- not a process established by law. The Village and Highway Commissioner planned to do this without regard to the fact that the Road District is funded by, and actually serves the residents of the unincorporated area of Homer Township (the “Township”), as well as portions of the City of Lockport, and Villages of Lemont and New Lenox, who also pay taxes to the Road District in addition to the Village of Homer Glen.

The Mayor explained that, in exchange for the Highway Commissioner signing away these assets owned by the taxpayers, the Village would give him a job with the Village. Subsequent to the Mayor informing Supervisor Meyers about this plan, DeVivo has stated publicly that this has been his plan “for years,” and that he has been having discussions with the Village about this plan “for years,” notwithstanding that he never once reported on this plan during his monthly reports to the Township and that the Village has never once discussed this openly or transparently at an open session of the Village Board until after this litigation was filed.

The conveyance of all of the Road District’s assets to the Village would allow the Village to suddenly have a public works department that was subsidized, in part, by taxpayers in other jurisdictions. While the Highway Commissioner cannot, by law abolish the Road District simply just giving it away, there is a legal process to abolish a road district, which is to put the issue before the electors at a referendum. Accordingly, the Township Board placed the question of the abolition of the Homer Township Road District on the ballot for the November 3, 2020, election to determine the will of the electors. On November 3, 2020, the electors overwhelmingly voted not to dissolve

the road district with a vote of 11,632 no votes (approximately 56%) to 9,127 yes votes (approximately 44%).

In direct contravention of the vote of the electors, and in a deliberate and unlawful attempt to circumvent the will of the voters, the Village of Homer Glen and the Homer Township Highway Commissioner, Mike DeVivo, (“DeVivo”) have fast tracked their efforts to gift the Road District’s assets to the Village. True to their plan, DeVivo did not file petitions to seek reelection as Highway Commissioner. The two other candidates for Highway Commissioner, one of whom will be elected on April 6, 2021, do not support this plan. In the pleadings filed in this case by the Village and Road District, the Defendants admit their plan is to accomplish the gifting of real property and assets on March 31, 2021. This would effectively excoriate the Road District days before the election so that, by the time a new highway commissioner is installed in office, a mere shell of the Road District would remain, as it would no longer own its current real property, its buildings, or a majority of its assets.

The Village and Road District plan to have DeVivo declare that essentially all of the real property and equipment of the Road District is unnecessary and surplus property, even though it is not. To the contrary, the Township passed a resolution finding that the Road District’s property is essential, consistent with DeVivo’s representations to the Board when seeking approval of his budgets and levies. In fact, if DeVivo has truly planned, with Homer Glen officials, to effectuate this transfer of the Road District’s property and assets to the Village for several years, then he has made fundamental misrepresentations to the Township Board to induce the Township Board to adopt budgets and to levy taxes for the Road District that were unnecessary.

Since the plan was first conveyed to the Township Supervisor, the Defendants have somewhat changed their tune. After the Township pointed out the potential criminal implications of DeVivo accepting employment with the Village in exchange for him conveying the Road

District's assets to the Village, the employment component of the plan has purportedly been dropped. Further, it appears that the Defendants have changed their plans to have DeVivo sign over all real and personal property of the Road District to the Village so that now DeVivo will now gift the Village most of the Road District's real estate and equipment instead of all of it.

The Township, the Township Supervisor/Road District Treasurer and several taxpayers, including several taxpayers residing in the Road District outside the Village of Homer Glen, filed a complaint seeking a declaratory judgment, preliminary and permanent injunction. Both Defendants filed motions for summary judgment. The Plaintiffs have filed a motion to suspend the briefing schedule on the motions for summary judgment and have asked for leave to file an amended complaint. At first, it did not appear that the injunctive relief was urgent because it did not appear that the Defendants were seeking to perform the asset transfer prior to the resolution of this lawsuit. However, because the Defendants have now indicated in their pleadings that they intend to effectuate the transfer on March 31, 2021, Plaintiffs seek to enjoin that act on a preliminary basis until the Court can consider the merits of this case. Because one of the elements of injunctive relief involves the Plaintiffs demonstrating a likelihood of success on the merits of their case, Plaintiffs address the claims raised in the Defendants' Motions for Summary Judgment on their initial Complaint herein.

For the following reasons, the Defendants should be enjoined from the fast tracking the essential "fire sale" of the majority of the Road District's assets to the Village until the Court has had the opportunity to take evidence on, evaluate and rule on the merits of the Plaintiffs' Complaint.

III. LEGAL STANDARD

When seeking injunctive relief, a party must establish: (1) a clear and ascertainable right in need of protection; (2) that irreparable harm will occur absent the issuance of an injunction; (3)

the absence of an adequate remedy at law; and (4) the likelihood of succeeding on the merits. *Callis, Papa, Jackstadt & Halloran v. Norfolk and Western Railway Co.*, 195 Ill. 2d 356, 366 (Ill. 2001). In establishing a likelihood of success on the merits, Plaintiff is not required to prove its case in its entirety. *All Seasons Excavating Co. v. Bluthardt*, 229 Ill.App.3d 22, 26 (1st Dist. 1992). Because “the purpose for injunctive relief is to preserve the status quo of the parties until the trial court decides on the merits of the case...a party seeking injunctive relief need only raise a ‘fair question’ as to the existence of the right claimed.” *Arcor, Inc. v. Haas*, 363 Ill. App. 3d 396, 400 (1st Dist. 2005) (citing *George S. May Intl. Co. v. International Profit Associates*, 256 Ill. App. 3d 779, 786 (1st Dist. 1993)). As set forth below, justice requires that the status quo be preserved via a preliminary injunction pending the trial on the merits of the case.

IV. ARGUMENT

A. Plaintiffs Have a Likelihood of Success on the Merits

In short, as discussed below, the Plaintiffs have a likelihood of success on the merits because Illinois highway commissioners do not possess the power to accomplish what DeVivo seeks to do, which is to convey the majority of the Road District’s land and assets to the Village without approval or oversight of no one. There are legal ways to effectuate a transfer of this nature, but they require the approval of the Township’s electors, as discussed below. The Defendants seek to bypass approval of the electors.

The legal issues in this case are strictly statutory and can be resolved by simply reading the involved statutes. To fully understand the conflict between the parties, and why the Township has standing to pursue this litigation, it is essential to understand the relationship between Illinois townships and road districts which can, at times, be vexing. While the Plaintiffs disagree with the Defendants’ characterization of a road district as a “municipal corporation,” they do not dispute that road districts are separate units of local government – just as a school district is a unit of

government, but it is not a “municipality.” However, road districts are not completely isolated islands of government, unaccountable to no one, as Defendants claim. They are completely intertwined with their townships, especially related to financial matters, but in other ways, also.

First, Illinois highway commissioners are not completely autonomous or free from any accountability to their townships, as Defendants claim. Highway commissioners are township officials. 605 ILCS 5/6-112 (emphasis added). Township supervisors are the *ex officio* treasurers of the road districts. 605 ILCS 5/6-114. The township supervisor must post a bond, as road district treasurer, related to the payout of road district funds. 605 ILCS 5/6-114. As road district treasurer, township supervisors must keep a record of all monies received and paid out from a road district. 605 ILCS 5/6-205. The road district treasurer must present a sworn, itemized statement of road district receipts and expenditures. 605 ILCS 5/6-205. The township board sets the highway commissioner’s compensation. 605 ILCS 5/6-207(d). Township clerks are the *ex officio* clerks for the township’s road district. 605 ILCS 5/6-113. The township clerk maintains all of the road district’s records. 605 ILCS 5/6-202.1.

This intertwined relationship between townships and road districts continues with respect to all road district financial matters. Highway commissioners are required to submit tentative budgets to the township board for approval. 50 ILCS 330/3. Township boards are required to adopt the road district’s budget and appropriation ordinance, or any part the board deems necessary. 605 ILCS 5/6-501(c). All bills for the road district are drawn on warrants on the township supervisor as treasurer, and must be signed by the township clerk as road district clerk. 605 ILCS 5/6-201.6. Each March, the highway commissioner must file a report with the township board explaining the amount of road money received by the road district and a full and detailed statement as to how it was expended. 605 ILCS 5/6-201.15. In addition, the report must list all inventory of road district tools valued in excess of \$200, machinery and equipment and the

condition of each. Id. With respect to the road district's levy, the highway commissioner determines the taxes necessary to be levied for road purposes. 605 ILCS 5/6-201.5. Based on the highway commissioner's representations, the township board then determines the road district's levy. 605 ILCS 5/6-201.1. Further, Homer Township and the Homer Township Road District prepare and report combined audit reports, which are filed with the State. They also share the same Federal Employer Identification Number, and the Supervisor is the Road District's authorized agent for IMRF purposes.

Throughout his tenure, each year DeVivo has represented to the Township Board that certain levels of taxation were necessary to maintain the Road District's assets and growth. In 2014, he sought a levy for and directed expenditures of substantial tax dollars to purchasing additional property and constructing a salt dome. In 2016, he sought and received levy amounts for a large building addition. In 2020, he constructed a new building completed and extensively remodeling the Road District's main administrative center and office building. He has invested in upgrading and converting the water and sewer systems of the District properties suitable to hook on to Illinois American Water system lines and added sprinkler systems to the buildings.

Late last summer, DeVivo publicly stated that he as been planning "for years" to transfer all of the Road District's assets to the Village, effectively dissolving the Road District. Each month, DeVivo has presented a report to the Township Board and he has never once mentioned this plan to the Township Board. Suddenly, DeVivo has characterized most of his real property and equipment as "surplus," including two 2020 trucks that he just recently purchased, with a current value of \$240,000 according to Exhibit 1B of the Road District's Motion for Summary Judgment. Never once did DeVivo indicate to the Township Board that he was seeking to levy funds against all taxpayers in the Road District that would be used to acquire land, improve land, and purchase equipment which he intended to use, not for road purposes, but to give for \$10 to the

Village of Homer Glen so it could have a public works department without taxing its residents for it.

The entire time DeVivo has been in office, he has presented budgets and levies to the Township Board and certified the Township Board that the public funds he was seeking were essential to the operation of the Road District. Most recently, DeVivo presented a levy in December 2020 asking the Township to levy \$ 2,092,830, collectible in 2021, and claiming that it was essential for the operation of the Road District. Each year, based upon DeVivo's representations, the Township Board has adopted the budget and levies requested by DeVivo. Apparently, the funds DeVivo sought to have the Township Board levy were not necessary for road purposes, but were instead necessary to acquire an arsenal of equipment and assets to build a public works department for the Village. For example, since 2015, DeVivo has undertaken \$2,647,602 worth of improvements to the Road District's primary building, representing to the Township Board that they were essential to the Road District's operations. If it is true that DeVivo has planned to gift the Road District's assets to the Village for years, then he has intentionally misrepresented his plans to the Township Board to induce the Board to adopt a tax levy to collect tax dollars from the Road District's taxpayers, which include several of the plaintiffs and many residents of the Road District who do not live within the Village of Homer Glen.

While DeVivo has no issue making representations and certifications to the Township Board regarding the Road District's financial needs, he now takes offense to the Township Board questioning his actions and misrepresentations the Township Board and claims the Township Board has no standing to hold him accountable for his actions related to his apparently false inducements to the Township Board. Notwithstanding this intricate relationship between townships and road districts, DeVivo claims in his motion for summary judgment that the Township has no standing whatsoever to question or challenge his gifting of the majority of road

district real and personal assets to the Village, although everything he seeks to convey was acquired with funds from the levies DeVivo convinced the Township Board were essential for road purposes. Basically, DeVivo is arguing that he can tell the Township Board whatever he wants to induce them to adopt a levy, but once they do, they cannot question what he does with the assets he acquired, nor can they question his actions.

DeVivo now claims that he has been planning for years to gift most of the assets of the Road District to the Village of Homer Glen because the assets are actually not essential to the operations of the district and are “surplus property.” If it is true that DeVivo has been planning for years to claim to gift the Road District’s assets to the Village under the guise that most of the Road District’s assets are surplus, then he has been actively making misrepresentations to the Township Board to levy the Road District’s taxpayers unnecessarily, and duping the Township Board into adopting his levy, which it appears now was specifically designed merely to acquire equipment and remodel, expand and improve Road District buildings for the benefit of the Village instead of the Road District. If township boards lacks standing to question and challenge one of their own township officials’ actions and to make sure they comply with applicable laws (since the townships actually insure highway commissioners), then highway commissioners are accountable to nobody.

DeVivo is a township official, accountable to the Township under the statutes cited above. Plaintiff Pam Meyers is the Treasurer of the Road District. The Township Board and Meyers absolutely have the right to question the Highway Commissioner’s expenditures of public funds and to make sure that any disposition of Road District assets is accomplished in a legal fashion. The other individual plaintiffs are taxpayers located in the Road District. As outlined fully in the complaint, several of them are taxpayers in the Road District who do not live in Homer Glen, whose tax dollars were used to pay for the improvements that DeVivo now seeks to give

exclusively to Homer Glen. The specific interests of the Plaintiffs who are electors is described more fully below.

Further, DeVivo claims that he is not a proper defendant because any judgments against the Road District would apply to DeVivo. However, it is DeVivo himself, not the corporate entity of Road District, who plans to sign the documents to effectuate the illegal transfer, so he is an appropriate defendant.

Having explained the interrelationship between the parties, the key legal issue to examine is whether DeVivo has the legal ability to give away the Road District's assets. For the reasons discussed below, he does not, so the Plaintiffs have a likelihood of success on the merits.

- i. The Highway Commissioner lacks the legal ability to sell or give away Road District real estate without approval of the electors.

In addition to claiming that nobody has standing to challenge DeVivo, Defendants claim in their motions for summary judgment that DeVivo has the unfettered right to transfer all of the Road District's real and personal property to the Village by a flick of a pen and subject to his sole whim. While Illinois law does encourage extensive intergovernmental cooperation, it does not extend to the breadth the Defendants claim.

Illinois road districts are regulated by the provisions of Article VII, Section 8 of the Illinois Constitution which state, in part, that units of local government "shall have only powers granted by law." Ill. Const. Art. VII, Section 8. This principle, known in the argot as "Dillon's Rule" is mirrored in the Illinois Highway Code, which provides that, "Road districts have corporate capacity to exercise the powers granted thereto, or necessarily implied and no others." 605 ILCS 5/6-107. Therefore, if DeVivo wants to sell or give away road district real property, he must be able to point to some law that gives him that power. 605 ILCS 5/6-107. Because he cannot do so, he does not possess the power.

The Plaintiffs do not dispute that road districts have the power to sell property. Instead, they aver that the Defendants must follow the statutory process for doing so, and that does not include the manner in which they propose to effectuate the transfer. A highway commissioner, acting alone, cannot effectuate a sale. There is only one statute that discusses the manner in which sale of road district real property is accomplished, and that is articulated in Section 30-50 of the Illinois Township Code, which provides as follows:

Sec. 30-50. Purchase and use of property.

(a) The electors may make all orders for the purchase, sale, conveyance, regulation, or use of the township's corporate property (including the direct sale or lease of single township road district property) that may be deemed conducive to the interests of its inhabitants, including the lease, for up to 10 years, or for up to 25 years if the lease is for a wireless telecommunications tower, at fair market value, of corporate property for which no use or need during the lease period is anticipated at the time of leasing. The electors may delegate the power to purchase, sell, or lease property to the township board for a period of up to 12 months and the township board may specify properties being considered. The property may be leased to another governmental body, however, or to a not-for-profit corporation that has contracted to construct or fund the construction of a structure or improvement upon the real estate owned by the township and that has contracted with the township to allow the township to use at least a portion of the structure or improvement to be constructed upon the real estate leased and not otherwise used by the township, for any term not exceeding 50 years and for any consideration. In the case of a not-for-profit corporation, the township shall hold a public hearing on the proposed lease. The township clerk shall give notice of the hearing by publication in a newspaper published in the township, or in a newspaper published in the county and having general circulation in the township if no newspaper is published in the township, and by posting notices in at least 5 public places at least 15 days before the public hearing.

(60 ILCS 1/30-50)(a)emphasis added).

While Section 30-50(a), above, discusses that it is the electors who effectuate the sale of road district property, the process is further set forth by Section 30-50(d) of the Illinois Township Code, which provides as follows:

(d) Before the township makes a lease or sale of township or road district real property, the electors shall either delegate the power to the township board to purchase, sell, or lease properties for a period of up to 12 months as provided in subsection (a) or adopt a resolution stating the intent to lease or sell the real

property, describing the property in full, and stating the terms and conditions the electors deem necessary and desirable for the lease or sale. A resolution stating the intent to sell real property shall also contain pertinent information concerning the size, use, and zoning of the property. The value of real property shall be determined by a State licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the staff of the township or by listing with local licensed real estate agencies (in which case the terms of the agent's compensation shall be included in the resolution). Anytime during the year, the township or township road district may lease or sell personal property by a vote of the township board or request of the township highway commissioner.

The clerk shall thereafter publish the resolution or personal property sale notice once in a newspaper published in the township or, if no newspaper is published in the township, in a newspaper generally circulated in the township. If no newspaper is generally circulated in the township, the clerk shall post the resolution or personal property sale notice in 5 of the most public places in the township. In addition to the foregoing publication requirements, the clerk shall post the resolution or personal property sale notice at the office of the township (if township property is involved) or at the office of the road district (if road district property is involved). The following information shall be published or posted with the resolution or personal property sale notice: (i) the date by which all bids must be received by the township or road district, which shall not be less than 30 days after the date of publication or posting, and (ii) the place, time, and date at which bids shall be opened, which shall be at a regular meeting of the township board.

All bids shall be opened by the clerk (or someone duly appointed to act for the clerk) at the regular meeting of the township board described in the notice. With respect to township personal property, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a majority vote of the board. With respect to township real property, the township board may accept the high bid or any other bid determined to be in the best interests of the township by a vote of three-fourths of the township board then holding office, but in no event at a price less than 80% of the appraised value. With respect to road district property, the highway commissioner may accept the high bid or any other bid determined to be in the best interests of the road district. In each case, the township board or commissioner may reject any and all bids. This notice and competitive bidding procedure shall not be followed when property is leased to another governmental body. The notice and competitive bidding procedure shall not be followed when real or personal property is declared surplus by the township board or the highway commissioner and sold to another governmental body.

The township board or the highway commissioner may authorize the sale of personal property by public auction conducted by an auctioneer licensed under the Auction License Act or through an approved Internet auction service.

This section of the Township Code specifically gives the electors, and only the electors, acting at a town meeting the ability to effectuate a sale of road district real property. While it is true, as Defendants point out in their motions, that the notice and competitive bidding sections of the statute do not apply when the property is conveyed to another government, nothing in this statute says that elector approval is not required for the sale of road district real property to another government. When a highway commissioner wants to sell real estate, once the electors approve the transfer, then no notice or competitive bid is required. In this instance, Plaintiffs have encouraged the Defendants to take the very easy steps required to call a meeting of township electors to have them approve the sale, but Defendants have refused to do so. In fact, the annual town meeting for Homer Township will occur in April and it would have been easy to add the sale of road district property to the agenda, but the Defendants did not seek to do so, perhaps because they know the electors will not approve the sale. Regardless, the only statute addressing the manner in which a sale of road district real property is effectuated is Section 30-50(d) of the Illinois Township Code. That statute does not confer highway commissioners with the ability to decide unilaterally to sell road district property without any oversight. It gives the sole decision to sell road district real estate to the electors.

Further, the Defendants are attempting to completely bypass the required appraisal process for the sale of the property. The procedures are set forth in Section 30-50(d) of the Illinois Township Code, which states:

(d) Before the township makes a lease or sale of township or road district real property, the electors shall either delegate the power to the township board to purchase, sell, or lease properties for a period of up to 12 months as provided in subsection (a) or adopt a resolution stating the intent to lease or sell the real property, describing the property in full, and stating the terms and conditions the electors deem necessary and desirable for the lease or sale. A resolution stating the intent to sell real property shall also contain pertinent information concerning the size, use, and zoning of the property. The value of real property shall be determined by a State licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the staff of the

township or by listing with local licensed real estate agencies (in which case the terms of the agent's compensation shall be included in the resolution).

60 ILCS 1/30-50(d).

DeVivo's attempted gifting of the property to the Village for the nominal value of \$10 completely bypasses the statutory process for the valuation and sale of the property, and ignores the rights of the electors.

Defendants argue that three other statutes give the Highway Commissioner permission to simply transfer the real estate to the Village. First, they cite the Illinois Local Government Property Transfer Act, 50 ILCS 605/1, as conferring such power. There are several flaws with this argument. The first fundamental problem is that the Illinois Local Government Property Transfer Act ("the Act") does not provide that any type government can give property to any other unit of local government. It specifically limits the types of government to which it applies, and that does not include Illinois road districts. The statute allows property to be transferred from a "transferor municipality" to a "transferee municipality. See 50 ILCS 605/1 *et seq*, generally. Section 1 of the act defines "transferor municipality" as "a municipal corporation transferring real estate or any interest therein." 50 ILCS 605/1 (a). Section 1(c) of the Act states:

(c) The term "municipality" whether used by itself or in conjunction with other words, as in (a) or (b) above, shall mean and include any municipal corporation or political subdivision organized and existing under the laws of the State of Illinois and including, but without limitation, any city, village, or incorporated town, whether organized under a special charter or under the General Act, or whether operating under the commission or managerial form of government, county, school districts, trustees of schools, boards of education, 2 or more school districts operating a cooperative or joint educational program pursuant to Section 10-22.31 of the School Code, sanitary district or sanitary district trustees, forest preserve district or forest preserve district commissioner, park district or park commissioners, airport authority and township.

50 ILCS 605/1(c) (emphasis added).

While “road districts” are not specifically enumerated in Section 1(c). In their pleadings, Defendants keep improperly characterizing the “road district” as a “municipal corporation.”

Section 6-102 of the Illinois Highway Code states:

Each township of the several counties under township organization, for the purposes of this Code, shall be considered and is called a road district for all purposes relating to the construction, repair, maintenance, financing and supervision of township roads unless under prior law it has been or pursuant to this Code is consolidated into a consolidated township road district or into a county unit road district.” 605 ILCS 5/6-102.

In accordance with this language, Plaintiff’s Complaint, par. 25, alleges that each township in Will County is considered and is called a road district for all purposes relating to the construction, repair, maintenance, financing and supervision of township roads, but, inexplicably, the Defendants’ answer denies that fact and contends that the road district is a municipal corporation. However, simply stating the conclusion that a road district is a municipal corporation does not make it so. Section 1-1-2(1) of the Illinois Municipal Code specifies:

(1) "Municipal" or "municipality" means a city, village, or incorporated town in the State of Illinois, but, unless the context otherwise provides, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town that has superseded a civil township, county, school district, park district, sanitary district, or any other similar governmental district. If "municipal" or "municipality" is given a different definition in any particular Division or Section of this Act, that definition shall control in that division or Section only.

65 ILCS 5/1-1-2(1).

Since a road district is not a municipal corporation, Plaintiffs anticipate that the Defendants will argue that “road district” should fall within the definition of “political subdivision.” However, the General Assembly has defined “political subdivision” as: “... any unit of local government, or school district in which elections are or may be held. "Political or governmental subdivision" also includes, for election purposes, Regional Boards of School Trustees, and Township Boards of School Trustees.”” 10 ILCS 5/1-3. There are no elections in Illinois road districts. Road districts

are not units of local government in which elections can be held. Townships have elections, at which highway commissioners are elected, but road districts are not empowered to hold elections. See 605 ILCS 5/6-116. Accordingly, a road district does not fall within the definition of either a “municipal corporation” or a “political subdivision” so it cannot exercise the powers under the Act.

That road districts are not intended to be covered by the Act is further demonstrated by reading what the Act requires for property transfers to occur. Specifically, Section 2 of the Act requires, in both subsections, that property transfers be approved by the “corporate authorities” of the transferring municipality. Section 1(e) of the Act states, “The term “corporate authorities” shall mean the members of the legislative body of any municipality as defined in (c) above.” 50 ILCS 605(1)(e). Illinois road districts do not have legislative bodies. The closest things a road district has to a legislative body is either the township board or the township electors acting at a town meeting. The Illinois Highway Code does not give highway commissioners the power to legislate. In addition, Section 4 of the Act specifies that a municipality “shall have the power upon resolution passed by a two-thirds vote of its members of its legislative body then holding office...” to transfer real estate to the State of Illinois. 50 ILCS 605/4. This further demonstrates that a road district is not a municipality as intended under the Act because it does not have a legislative body.

In the alternative, if a road district is a municipal corporation or political subdivision as defined by the Act, DeVivo still cannot effectuate the transfer on his own because he has not received the approval of the township board or the electors – which would be the only possible “corporate authorities” to effectuate the transfer under the provisions of the Act. In addition, even if the Act did apply to road districts, the Act again requires corporate action of a legislative body. It provides no grant of authority whatsoever for the highway commissioner, acting alone, without

the support of the township electors and against the will of the township board, to give away road district real property. The road district would still have to follow the provisions of the Act to effectuate a transfer and the highway commissioner cannot do so because he does not have a legislative body to approve his actions.

Statutes which relate to the same thing or to the same subject or object are *in pari materia*. Zears v. Davison, 154 Ill. App. 3d 408, 506 N.E.2d 1041, 1987 Ill. App. LEXIS 2314, 107 Ill. Dec. 150. It is a primary rule of statutory construction that not only should the intention of the legislature be deduced from a view of the whole statute and from its every material part, but statutes *in pari materia* should be construed together. Id. Viewing all of these statutory provisions together in the manner suggested by the Plaintiffs, they make sense. Municipal corporations and political subdivisions have legislators who can collectively make decisions. The General Assembly did not vest highway commissioners with higher powers than no other elected officials in the State, nor did they say highway commissioners have unfettered powers with no checks and balances, as the Defendants ostensibly argue. Highway commissioners cannot just give away public property on a whim, which is what DeVivo intends to do here. The strict construction of the applicable statutes demonstrate that highway commissioners are subject to the oversight of the township electors, or possibly the township board (if the Act applies) with respect to the sale of real property.

Further, even if the Act conveyed land transfer powers generally to road districts, that power would still have to be accomplished through the corporate authorities. If the Act is viewed as giving the power exclusively to the highway commissioner, it would then conflict with the Township Code's provisions giving the electors the power instead of the highway commissioner. See 60 ILCS 1/30-50. General principles of statutory construction require that, when statutes conflict, the more specific statute controls over the more general statute. Flynn v. Indus. Comm'n

(Utica Twp.), 211 Ill. 2d 546, 813 N.E.2d 119, 2004 Ill. LEXIS 987, 286 Ill. Dec. 62. The Township Code's provisions related to the sale of road district property is more specific than Act, so any discrepancy should be resolved to find the electors have the power to sell and convey property, not the highway commissioner.

DeVivo also claims he given the power to give away real estate under the Illinois Highway Code. (DeVivo MSJ at pp. 10-11). However, the two sections of the Highway Code that DeVivo cites in support for that position, Sections 6-107 and 6-201.10 do not confer highway commissioners with the power to sell property at all. See 605 ILCS 5/6-107 and 6-201.10. The statutes that DeVivo cites, strictly construed, do not give him that power. Section 6-107 states:

Road districts have corporate capacity to exercise the powers granted thereto, or necessarily implied and no others. They have power: (1) to sue and be sued, (2) to acquire by purchase, gift or legacy, and to hold property, both real and personal, for the use of its inhabitants, and again to sell and convey the same, (3) to make all such contracts as may be necessary in the exercise of the powers of the district.

605 ILCS 5/6-107. Clearly, this section gives the powers to road districts, not to highway commissioners. The procedure for road districts to sell property is addressed in Section 30-50 of the Highway Code, requiring elector approval.

Section 6-201.10 of the Illinois Highway Code, cited by Defendants, also does not support DeVivo's argument. That section provides that highway commissioners :

Have authority to make agreements with the highway commissioner of any other road district or with the corporate authorities of any municipality located in the same county or in an adjoining county or with the county board of the county in which such road district is located or of any adjoining county, for the lease or exchange of idle machinery, equipment or tools belonging to the district, upon such terms and conditions as may be mutually agreed upon.

605 ILCS 5/6-201.10. There is nothing whatsoever in this section that gives the highway commissioner the power to sell real estate. This section talks about the lease or exchange of idle machinery, equipment or tools, not a sale of real estate or personal property.

Contrary to Defendants' contention, the Illinois Township Code specifies that only the township electors can make the decision to sell road district real property. 60 ILCS 1/30-50(a). While road districts may have power to sell property, that power may only be exercised as prescribed in Section 30-50 of the Township Code because there is no other statute specifying the manner in which road districts can sell property. For this reason, DeVivo does not have the power to sell Road District real property, and the Plaintiffs have a likelihood of success on the merits of their Complaint. DeVivo should be enjoined from his plan.

- ii. The Highway Commissioner lacks the legal ability to sell or give away Road District personal property without approval.

Similarly, DeVivo claims he can give away all other assets (non-real estate) of the Road District simply by proclaiming that it is "surplus" property. To the contrary, Section 30-50(a) of the Illinois Township Code is directly applicable, directing that "The electors may make all orders for the purchase, sale, conveyance, regulation, or use of the township's corporate property (including the direct sale or lease of single township road district property) that may be deemed conducive to the interests of its inhabitants..." 60 ILCS 1/30-50(a). Section 30-50(d) of the Illinois Township Code provides "...Anytime during the year, the township or township road district may lease or sell personal property by a vote of the township board or request of the township highway commissioner." 60 ILCS 1/30-50(d). This section does not state that it applies only to real estate – it covers all corporate property.

Statutes must be construed in a manner that avoids absurd results. Christopher B. Burke Eng'g, Ltd. v. Heritage Bank of Cent. Ill., 2015 IL 118955, 43 N.E.3d 963, 2015 Ill. LEXIS 1272, 398 Ill. Dec. 53. Courts avoid interpreting statutes in a manner that would create absurd results or render part of the statute a nullity. Nelson v. Artley, 2015 IL 118058, ¶¶ 25, 27, 396 Ill. Dec. 374, 40 N.E.3d 27. Under DeVivo's interpretation of the statute, he can sell personal property merely by making a request of himself. That makes no sense. If the General Assembly intended for

highway commissioners to simply be able to sell or lease personal property without oversight they would not have included the words “upon request” of the highway commissioner. When construing statutes, words and phrases must be construed in relation to other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another. Bd. of Educ. v. Moore, 2021 IL 125785, P1, 2021 Ill. LEXIS 3, *1.

The only way the statutes involving the disposition of road district property can be construed harmoniously would be that the highway commissioner needs approval of the electors or township board to dispose of personal property. Because DeVivo has not presented any legal support for his contention that he can just give away the Road District’s personal property, he does not possess the power to effectuate his plan with the Village.

Further, if the statute is construed to confer highway commissioners with the power to sell personal property without any oversight or approval of the electoral board, that power does not extend to simply giving the property away for nominal value, which is what DeVivo has articulated that he intends to do. Accordingly, the Plaintiffs have a likelihood of success on the merits.

- B. Plaintiffs have a clearly ascertainable right in need of protection including their right to assure that the Road District acts in accordance with the law.

The previous two sections of Argument in this brief set forth the relationship between the Township and the Road District, as well as the rights of the Plaintiff electors with respect to making decisions about the sale of road district property. The township is known as the road district when it comes to road maintenance issues. 605 ILCS 5/6-102. The township indemnifies the acts of township officials, such as the highway commissioner. The Plaintiffs have a clearly ascertainable right to the continued operation of the Road District as an Illinois unit of local government,

including the provision of road and related services to constituents, and the retention of ownership Road District property which has been paid for with taxes collected, in part, from the Plaintiffs who non-Homer Glen taxpayers.

The Plaintiffs have a clearly ascertainable right to the strict enforcement of the Illinois Township Code and the Illinois Highway Code, including the substantive and procedural requirements preceding the sale of Road District property and to insist that, if the road district is going to be dissolved, such should be accomplished only in the manner permitted by law. See Waste Mgmt. of Ill., Inc. v. Ill. Poll. Control Bd., 356 Ill.App.3d 229, 235 (3d Dist. 2005) (holding that where the governing statute establishes the minimum requirements that must be met, the failure to provide the same is a failure to provide the required due process).

The Plaintiffs' right to enforce the Illinois Township Code and the Illinois Highway Code to prevent an unlawful dissolution of the Road District and to retain ownership of Road District property is in need of immediate protection from the illegal conspiracy undertaken by the Village and DeVivo to seize the Road District's property in a manner not authorized by law. DeVivo's unlawful gifting of the Road District's property will cause irreparable harm to the Plaintiffs insofar as the Road District will be rendered completely incapable of performing its statutory duties to construct, maintain and repair the highways in the township road system if the Road District no longer owns a facility and owns, for example, only one truck, which is essentially the proposal.

Further, the Township has a right to ensure that the funds it authorized for the Road District levy were properly used and protected. It has a clearly ascertainable right to assure that one of its Township officials, the Highway Commissioner, acts within his statutory authority when conveying Road District property, as the Township insures him against inappropriate acts. Plaintiff Meyers is the Road District Treasurer who is bonded to ensure the performance of her

responsibilities regarding the Road District's assets. As described above, DeVivo intends to act beyond his statutory authority.

Likewise, the Plaintiff electors have a right to make decisions about the sale of road district property, as set for the in the Township Code and as explained above. DeVivo's plan to dispose of property without elector approval deprives them of their ability to make decisions regarding road district assets. Plaintiffs have a legitimate interest in and clearly ascertainable property right to protect the road district's property and the property of the other citizens of the Road District their use and enjoyment of those properties.

C. Irreparable injury will occur if the Road District's property is transferred to the Village.

The proper manner to dissolve a road district is set forth at 605 ILCS 5/6-133. That section requires elector approval to dissolve a district. More importantly, it specifies what occurs when a road district is legally dissolved. Specifically, if the voters approve the dissolution of the road district, "all the rights, powers, duties, assets, property, liabilities, obligations, and responsibilities" would transfer to the township, so there is an articulated, identifiably process of the continuation of the services provided by the government. See 605 ILCS 5/6-133. DeVivo's plan to gift the Road District's assets to the Village in a manner other than that permitted by law excoriates the Road District. The irreparable harm that the Plaintiffs will suffer is that the Road District will continue to have a statutory obligation to provide services, the taxpayers are paying for those services, but the Road District will no longer have the assets or facilities required to perform those services because the Road District that they have been funding with tax dollars will no longer exist for all practical purposes. The Road District will no longer own the facilities the Township levied for and the taxpayers paid for. It will no longer own most of its equipment and assets, and the nominal items left will not be sufficient to operate the Road District's operations because the Road District will having insufficient equipment and facilities to keep the township's roads maintained.

The Plaintiffs will be irreparably harmed by the absence of the Road District services and the excoriation of the Road District in a manner not permitted by law.

D. Plaintiffs have no adequate remedy at law.

There is no remedy at law for the improper dissolution of a Road District. Once DeVivo transfers the majority of the real and personal assets of the Road District to the Village, the Road District will practically cease to exist or to be able to perform the statutory functions it is required to. Any new highway commissioner will be required to use tax dollars to rebuild the Road District's inventory that was gifted to the Village. The Plaintiffs have no legal remedy for the Road District being rendered completely incapable of performing its statutory duties to construct, maintain and repair the highways in the township road system. The plan that the Defendants are effectuating is in complete derogation of the will of the electorate as expressed in the November 3, 2020 election that the Road District not be abolished.

The second district appellate court has recognized that it is proper to issue a temporary injunction to prevent the conversion of property. See Shappert v. Roettger, 36 Ill.App.3d 452, 343 N.E.2d 695, 1976 Ill.App, LEXIS 2041 (2nd Dist. 1976). Further, the third district appellate court has upheld injunctions in situations involving real property. Toledo, P. & W. Railroad v. East Peoria, 273 Ill.App.318. 1934 Ill.App.LEXIS 906 (3rd Dist. 1934). In Toledo, the court considered that the person in possession of the property could seek injunctive relief to preserve the property. ("The right to the remedy is not limited to those who may actually have a clear title of the lands, but may be availed of by one who is in actual possession thereof under claim of title, and he does not have to sit by, see his property invaded and destroyed, and be compelled to seek damages at law.") Id. Similarly, the fourth district appellate court has affirmed injunctive relief ordered to prevent damage to real property. Stoffel v. Kilian, 329 Ill. App. 498, 69 N.E.2d 352, 1946 Ill.App. LEXIS 341.

While at first blush it may seem that if the property could be transferred to the Village, and then, when the Plaintiffs prevail, the Village could transfer it back, the issue is a) the Road District will not have sufficient assets to continue to operate in the interim and b) once the Village has possession of the land and equipment, it is under no obligation to preserve them and it can do with them whatever it wants, including selling them outright.

Absent the entry of an injunction, the Road District will no longer have its primary buildings or equipment. The best of the assets will have been taken away from whichever highway commissioner is elected on April 6, 2021, removing from DeVivo's successor the ability to use the Road District's assets as he may deem appropriate to perform the statutory responsibilities of the highway commissioner and the Road District. This can all be avoided if the court first rules on the merits of the case prior to any transfer, sale or conversion occurring.

- E. Plaintiffs will be harmed substantially more by the lack of an injunction than Defendants will be through the entry of an injunction.

The balancing of the equities favors the Plaintiffs because DeVivo is attempting to (a) convey Road District's assets to the Village without any legal ability to do so whatsoever; (b) take assets of the Road District which were paid for, in part, by taxpayers outside of the Village of Homer Glen and convey them for less than fair market value to the Village, and (c) cause a *de facto* dissolution of the Road District, which has a statutory duty to perform road functions within its jurisdiction, which includes areas outside of the Village.

The balancing of the equities favors the Plaintiffs. First, if the Defendants have been planning this transfer "for years," as they claim, waiting another month or so for the trial court to conduct a hearing on the merits of Plaintiffs' case should not pose a problem at all. They have not articulated why their proposed transfer must occur on March 31, 2021 and why it cannot occur, for example on May 30, 2021. If DeVivo has the legal ability to convey and transfer the property, the delay in doing so will not pose any harm whatsoever to the Defendants. On the other hand, if

DeVivo illegally gifts or converts the Road District's property, the Road District will be incapable of performing its statutory duties, the taxpayers will continue to pay taxes for service and assets they do not have, and nobody will have control over whatever happens to the land or equipment once it is given to the Village. The balancing of the equities supports preserving the *status quo* pending a final judgment on the merits.

Plaintiff will be harmed substantially more by the lack of an injunction than Defendants will be through the entry of an injunction, because the Defendants will not be harmed at all. In the absence of an injunction, DeVivo will convey most of the assets of the Road District to the Village prior to the time the court has a chance to evaluate and consider the merits of the Plaintiffs' Complaint. Clearly, it is in all parties' interests that the Complaint be decided first, prior to any transfer of any property whatsoever from DeVivo to the Village. As stated, there is a high likelihood of success on Plaintiffs' claims which will result in the voiding of any transfer and thus not subjecting Plaintiffs to the irreparable harm that is imminent.

G. Plaintiffs' injunctive relief should be issued without the posting of a bond.

While the requirement of imposing a bond associated with a restraining order or preliminary injunctive relief is normally within the discretion of this Court, 735 ILCS 5/11-103 is clear that "[n]o such bond shall be required of any governmental office or agency." As this Motion is brought in part on behalf of Homer Township, no such bond shall be required.

For all of the reasons set forth herein, Plaintiff's Motion for a Preliminary Injunction should be granted.

V. CONCLUSION

As stated, for this Court to grant Plaintiffs' Motion, Plaintiffs are not required to prove its case in its entirety, but rather merely show that it will probably be entitled to relief if the proof sustains the allegations. *All Seasons Excavating Co. v. Bluthardt*. 229 Ill.App.3d 22 (1st Dist. 1992).

Plaintiffs easily meet this burden and their Motion should be granted. Plaintiffs have a high likelihood of succeeding on the merits as DeVivo has no legal ability whatsoever to gift almost \$3,000,000 of the Road District's real estate and personal property to the Village as he intends to do.

WHEREFORE, Plaintiffs respectfully requests that this Court grant Plaintiffs' Motion for Preliminary Injunction and enter the following order:

A. Enter immediate preliminary injunctive relief enjoining Defendants from taking any further action to attempt to sell, transfer or convey any real or personal property of the Road District to the Village of Homer Glen.

B. Pursuant to 735 ILCS 5/11-103, Plaintiff's requested injunctive relief shall be entered without a bond requirement;

C. Grant such other and further or different relief in favor of Plaintiffs as this court may deem equitable and just.

Respectfully submitted,



By: _____
One of Plaintiffs' Attorneys

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RESOLUTION NO. HT2020-10-05-RES1

**A RESOLUTION DECLARING THAT ALL REAL AND PERSONAL
PROPERTY OF THE HOMER TOWNSHIP ROAD DISTRICT
IS ESSENTIAL AND NOT SURPLUS PROPERTY**

Whereas, Section 6-134 of the Illinois Highway Code, 605 ILCS 5/6-134, authorizes the board of trustees of any township located in a county with less than 3,000,000 inhabitants to, by resolution, submit a proposition to abolish the road district of that township to the electors at a general election or consolidated election; and

Whereas, the Board of Trustees (“Board”) of the Township of Homer (“Township”) has placed a question on the ballot for the November 3, 2020 election pursuant to Section 6-134 to determine whether the electors want to abolish the road district and;

Whereas, the assets of the Homer Township Road District include both real property and personal property that has been paid for by all of the taxpayers in the Road District, including taxpayers in Lockport, New Lenox, Lemont, Homer Glen and residents in the unincorporated areas of the Township; and

Whereas, the Homer Township Highway Commissioner has indicated that he intends to give all of the Road District’s assets to the Village of Homer Glen, thereby abolishing the Homer Township Road District himself without regard to the will of the voters, and without transparency or accountability, and without regard to the other taxpayers who purchased the property; and

Whereas, the real property and person property currently owned by the Homer Township Road District are essential to the performance of the Road District’s functions, either by the Road District or the Township in the event that the referendum passes; and

Whereas, the Highway Commissioner has no legal ability whatsoever to give away essential real property or personal property owned by the Road District, nor to declare such property as surplus as an artifice and sham as a means to convey the property to the Village of Homer Glen when the property really is not surplus property; and

Whereas, Section 30-50 of the Illinois Township Code specifies, in part, that the Township Board has the ability to determine whether road district property is surplus.

Now, Therefore, Be It Resolved by the Board of Trustees of Township of Homer, Will County, Illinois, as follows:

Section 1. Incorporation of Preambles. The Board hereby finds that all of the recitals contained in the preambles to this Resolution are full, true and correct and does incorporate them into this Resolution by this reference.

Section 2. Declaration regarding Road District Property. The Township Board hereby finds that all property owned by the Road District, whether real or personal, is necessary

to perform the current legal obligations of the Road District and, therefore, all real property and personal property owned by the Homer Township Road District is not surplus property and is essential to maintain.

Section 3. Severability. If any section, paragraph, clause or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

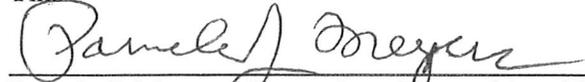
Section 4. Repealer and Effective Date. All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this Resolution be in full force and effect forthwith upon its adoption.

Adopted:

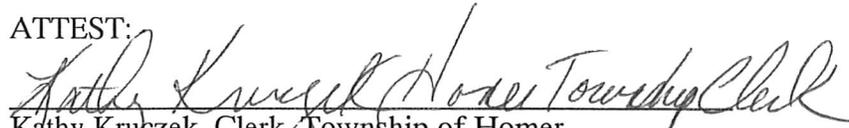
This 5th day of October 2020

APPROVED by Township Supervisor

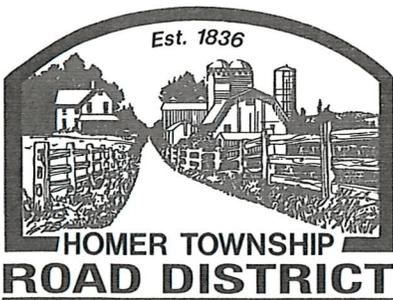
This


 Pamela J. Meyers, Supervisor, Township of Homer

ATTEST:


 Kathy Kruczek, Clerk, Township of Homer

Township of Homer Trustees	Aye	Nay	Abstain	Absent
Tom Fijian Trustee	✓			
Ed Kalas Trustee	✓			
John Kruczek Trustee	✓			
George Offord Trustee			✓	
Pamela J. Meyers Township Supervisor	✓			



Mike De Vivo
Highway Commissioner

FILED

2020 DEC 18 PM 12:03

708.301.0246

14400 W. 151st Street Homer Glen, IL 60491-6739 Fax 708.301.0436

TAX LEVY ORDINANCE

HOMER TOWNSHIP ROAD DISTRICT

ORDINANCE NO: HTRD-121420

An ordinance levying taxes for all road purposes for the Homer Township Road District, Will County Illinois, for the tax year 2020, collectable in 2021.

BE IT ORDAINED by the Board of Trustees of Homer Township, Will County, Illinois, as follows:

SECTION 1: That the Highway Commissioner of the Homer Township Road District on December 14, 2020 does hereby determine and declare that the sum of Five Million, Eighty-one Thousand, Thirty-nine and 00/100 Dollars (\$5,081,039.00) are hereby levied upon all property subject to taxation within the Road District as that property is assessed and equalized, in order to meet and defray all of the necessary expenses and liabilities of the Road District as required by statute or voted by the people in accordance with the law, for such purposes as:

Road and Bridge Fund
Building and Equipment Fund

For the year 2021

SECTION 2: That the amount levied for each object and purpose shall be as follows:

<u>ROAD and BRIDGE FUND</u>	\$ 4,530,787.00
<u>EQUIPMENT and BUILDING FUND</u>	\$ 550,252.00

SECTION 3: That the Town Clerk shall make and file with the County Clerk of said County of Will, on or before the last Tuesday of December 2020 a duly certified copy of this ordinance.

SECTION 4: That if any section, subdivision or sentence of this ordinance shall for any reason be held invalid or to be unconstitutional, such finding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5: That this ordinance shall be in full force and effect after its adoption, as provided by law.

ADOPTED this 14th day of December 2020, pursuant to a roll call vote by the Board of Trustees of Homer Township, Will County, Illinois.

2020 DEC 18 PM 12:03
 FILED
 WILL COUNTY CLERK
 WILL COUNTY, ILLINOIS

<u>BOARD of TRUSTEES</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John Kruczek	<u>X</u>	_____	_____
Tom Fijan	<u>X</u>	_____	_____
George Offord	_____	_____	<u>X</u>
Ed Kalas	<u>X</u>	_____	_____
Pam Meyers	_____	<u>X</u>	_____



 Kathy Kruczek
 Town Clerk



 Pam Meyers
 Chairman – Board of Trustees

**CERTIFICATION OF TAX LEVY ORDINANCE
 HOMER TOWNSHIP ROAD DISTRICT**

The Undersigned, duly elected, qualified and acting Clerk of Homer Township, Will County, Illinois, does hereby certify that the attached hereto is a true and correct copy of the Tax Levy Ordinance of said Road District for the year 2021, as adopted this 14th day of December 2020.

This certification is made and filed pursuant to the requirements of the Illinois Statue 60 ILCS 1/75-20 and on behalf of the Homer Township Road District, Will County, Illinois. This certification must be filed by the last Tuesday in December 2020.

DATED this 14th day of December 2020 

 Kathy Kruczek, Town Clerk

FILED this 18th day of December 2020

County Clerk Seal

2020

**TAX LEVY
HOMER TOWNSHIP
ROAD DISTRICT**

**EST.
E.A.V.
1,578,521,752**

Amount Levied
2020

1 GENERAL ROAD FUND

1.1 ADMINISTRATION

Personnel	<u>264,910.00</u>
Contractual Services	<u>248,283.00</u>
Commodities	<u>10,268.00</u>
Other Expenditures	<u>10,268.00</u>
Capital Outlay	<u>10,268.00</u>

TOTAL ADMINISTRATION

\$543,997.00

1.2 MAINTENANCE

Personnel	<u>1,252,222.00</u>
Contractual Services	<u>1,723,222.00</u>
Commodities	<u>989,252.00</u>
Other Expenditures	<u>22,094.00</u>
Capital Outlay	

TOTAL MAINTENANCE

\$3,986,790.00

TOTAL GENERAL ROAD FUND:

\$4,530,787.00

3 EQUIPMENT & BUILDING FUND

Capital Outlay	<u>550,252.00</u>
----------------	-------------------

TOTAL EQUIPMENT & BUILDING FUND

\$550,252.00

2020

**TAX LEVY
HOMER TOWNSHIP
ROAD DISTRICT**

**EST.
E.A.V.**
1,578,521,752

	2019 Tax Extended	2020 Amt Levied
1. Road & Bridge Tax	4,288,292.00	<u>\$4,530,787.00</u>
3 Equipment & Building Tax	642,857.00	<u>\$550,252.00</u>
Extended Amount	4,931,149.00	
	TOTAL CORPORATE TAXES LEVIED:	<u>\$5,081,039.00</u>

This represents a .030396567 increase over last year

2020

TAX LEVY
HOMER TOWNSHIP
ROAD DISTRICT

TRUTH-IN-TAXATION COMPUTATION

TAKE: Amounts extended in 2019 --- (rec'd 2020)

Road and Bridge	4,288,292.00	
Equipment and Building	642,857.00	
TOTAL		4,931,149.00

TOTAL ALL EXTENSIONS for 2019 (rec'd in 2020) 4,931,149.00

Amounts levied in 2020:

Road and Bridge	4,530,787.00	
Equipment and Building	550,252.00	
TOTAL		5,081,039.00

TOTAL ALL LEVIES for 2020 5,081,039.00

SUBTRACT (-) ----

Current year levy minus last year's extension equals (=) difference

(2020 Levy Amt)	(2019 Extened Amt)	=	(Difference)
5,081,039.00	- 4,931,149.00	=	149,890.00

DIFFERENCE 149,890.00

DIVIDE (/) ----

Divide (/) difference by last year's extension amt to determine percentage of change

(Divide Diff)	149,890.00	
(2020 Ext Amt)	<u>4,931,149.00</u>	= 0.030396567

% of INCREASE = 3.040%

LAUREN STALEY FERRY

WILL COUNTY CLERK

WWW.THEWILLCOUNTYCLERK.COM

FILED

302 N. CHICAGO STREET, JOLIET, IL 60432

COCLRK@WILLCOUNTYILLINOIS.COM

815-740-4615

FAX: 815-740-4699

2020 DEC 18 PM 12: 03

WILL COUNTY CLERK
WILL COUNTY, ILLINOIS

CERTIFICATE OF COMPLIANCE WITH TRUTH IN TAXATION

IN ACCORDANCE WITH CHAPTER 35 SECTIONS 200/18-55
THROUGH 200/18-101.65 ILLINOIS COMPILED STATUTES

I, Mike De Vivo (Presiding Officer of District), hereby
certify to the Will County Clerk that The Homer Township Road District
(Name of District) has complied with all provisions of Truth in Taxation, as amended,
with respect to the adoption of the tax levy for year 2020.

(CHECK ONE BOX)



The District levied an amount of ad valorem tax that is less than or equal to 105% of the final aggregate extension plus any amount abated prior to extension for the preceding year, therefore the publication and hearing provisions of Truth in Taxation are **inapplicable**.

OR



The District levied an amount of ad valorem tax that is greater than 105% of the final aggregate extension plus any amount abated prior to extension for the preceding year, therefore the publication and hearing provisions of Truth in Taxation are **applicable** and have been met.

Said public hearing was held on _____ (Date).


Signature of Presiding Officer

12/17/2020
Date

(Attach this Certificate to Tax Levy)
rev 10/2009

PRINT