

**STATE OF MICHIGAN**  
**IN THE PROBATE COURT FOR THE COUNTY OF KENT**

In re:

Case No.: 20-207552-TV  
Hon. David M. Murkowski

THE EDMUND TALANDA TRUST  
u/a/d 11/15/1995, as Amended and Restated.

THE DOROTHY MARIE TALANDA TRUST  
u/a/d 11/15/1995, as Amended and Restated.

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**COUNTY OF KALAMAZOO'S**  
**MOTION FOR SUMMARY DISPOSITION**

County of Kalamazoo (hereinafter referred to as “County”), by and through its counsel,  
Cohl, Stoker & Toskey, P.C., moves for Summary Disposition pursuant to MCR 2.116(C)(10),  
and in support states as follows:

1. On January 28, 1963, County and the then ten owners (five married couples) of certain real property located in Kalamazoo County entered into a Settlement Agreement in a condemnation action brought by the County regarding certain real property located within Kalamazoo County, located at Lots 18 & 19 of the unrecorded plat of Point Gloria, Gourdneck Lake, (hereinafter referred to as "Subject Property"), which lots are completely surrounded by Kalamazoo County Prairie View Park.

2. The 1963 Settlement Agreement conferred the County with an interest in the Subject Property which is the subject of this action consisting of a right of "First Option to Purchase" the Subject Property.

3. The 1963 Settlement Agreement provides, in pertinent part:

NOW, THEREFORE, in consideration of the matters hereinabove and hereinafter set forth, the party of the first and the parties of the second part have agreed and do hereby agree as follows:

1. The party of the first part [County] agrees to have **non-suit entered in the condemnation suit now pending** against the parties of the second part [Five Couples] in the Circuit Court for Kalamazoo County, File No. 33-308.

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8. It is hereby agreed by and between the party of the first part and the parties of the second part, that the **said party of the first part shall have First Option to Purchase the said property** above described, owned and occupied by the parties of the second part; **the parties of the second part agree that they will not rent or assign their said premises to any person or persons who are not parties of the second part.** (emphasis added).

4. The 1963 Settlement Agreement also expressly provided that the parties of the second part could not convey the subject property "to any person or persons who are not parties to the second party" being original signatories to the 1963 Settlement Agreement. Effectively, this ensured that the Subject Property would be offered to the County prior to any transfer by operation of the County's right to First Option to Purchase the Subject Property in satisfaction of its goal to acquire the property to complete the acquisitions necessary for Prairie View Park.

5. The County has come to learn (always after the fact) that over the years, the heirs consisting of both the Talanda and Johnson families to the Settlement Agreement have violated the terms of the 1963 Settlement Agreement through conveyances among extended heirs and other family members, as well as through conveyances to the Petitioner Trusts.

6. As of 2002, as a result of the deaths of seven of the ten original signatories, interests in the Subject Property were consolidated into survivors/signators Helen Johnson, owning an undivided one-half interest, and Edmund and Dorothy Talanda owning the other undivided one-half interest, which latter interest is now the subject of the current dispute.<sup>1</sup>

7. Edmund and Dorothy Talanda then conveyed their one-half interest in the Subject Property to the Edmund Talanda Trust u/a/d 11/15/1995 via quit claim deed, which deed was not recorded until sometime after Edmund Talanda's death on April 5, 2019.

8. Prior to that conveyance, Edmund and Dorothy Talanda were concerned that the series of conveyances of the two parcels were made in violation of the terms of the 1963 Settlement Agreement, and took it upon themselves to draft a Statement to be included in their trust, which stated:

Regarding the property in Prairie View Park, of which we own 50 percent, we want to enter this statement into our family trust. It has always been our intent to honor the Circuit Court of Kalamazoo County's Court Order of 1963 #57-576), which states that we shall not assign or sell this property without giving the County the first right of refusal. (See February 13, 2004 Declaration of Intent attached as Exhibit 6 and Affidavit of Laraine Goetting attached as Exhibit 11).

9. The County's Right of First Option to Purchase the Subject Property would be activated when the Talanda Trust either agreed and/or contemplated selling or transferring the Subject Property to a third party.

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<sup>1</sup> At this time, the interest held by the Johnson family, and whether the conveyance from Helen Johnson to her children back in 2002 (recorded in 2011) breached the 1963 Settlement Agreement is not currently before the Court.

10. Respondents/Counter-Petitioners Laraine Goetting and Michele Kraft have argued on this record that any impending transfer of the Subject Property out of the Trust would be void ab initio, as the Subject Property cannot be lawfully conveyed until the County has declined the opportunity to purchase the Subject Property on the same terms.

11. Upon information and belief, this Court granted Summary Disposition to Petitioners/Counter-Respondents Talanda, Fath and Potts, and has found that the Trust should execute a valid conveyancing deed, but to date no order has been entered by the Court.

12. There are no questions of material fact that the County's 1963 Right of First Option to Purchase has priority over the interests of Camille Fath and Edmund Talanda to have the Talanda Trust one-half interest in the Subject Property be conveyed under a 2019 Settlement Agreement amongst the Talanda family heirs.

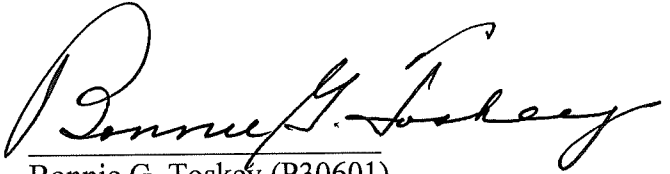
13. The disposition and/or transfer of the Subject Property under the Court's forthcoming order may impair or diminish the County's acknowledged property interest in the Subject Property.

14. Summary disposition is warranted pursuant to MCR 2.116(C)(10) such that the Court should order that the undivided one-half interest in the Subject Property currently held by the Talanda Trust be offered to the County for purchase as set forth in the 1963 Settlement Agreement prior to being transferred to Camille Fath and Edmund Talanda pursuant to a 2019 Settlement Agreement among the heirs.

WHEREFORE, the County respectfully requests that this Honorable court grant its Motion for Summary Disposition pursuant to MCR 2.116(C)(10) in the above referenced matter, along with any other such relief that is just and equitable under the circumstances.

Dated: January 25, 2021

COHL, STOKER & TOSKEY, P.C.

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