

**Fahey Schultz  
Burzych Rhodes**

EXPERT COUNSEL



REAL SOLUTIONS

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# Know Your Boundaries

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# Disclaimer

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- This presentation, and the materials associated with it, are comprised of general information and not intended as legal advice related to specific questions of attorney-client privilege.
- Please contact an attorney if you need assistance related to a specific legal issue.

# Annexation of General Law Townships

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## Boundary Commission

- Resolution by City Council
- Petition by Residents or Property Owners

## Outside the Boundary Commission

- Mutual agreement of City and Township
- Unilateral annexation by City





# City Annexation Strategies—General Law Townships



- Piecemeal approach
- Withhold water or sewer without annexation
- Sham land purchases



# Annexation of Charter Townships

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- Criteria for “exemption”
  - Very limited “exemption” from Boundary Commission annexations if Charter Township existed before June 15, 1978, or meets all 7 criteria:
    1. SEV at least \$25 million
    2. 150 persons per square mile (5,400 in typical township)
    3. Fire protection by contract or otherwise
    4. Comprehensive zoning ordinance or master plan
    5. Solid waste disposal by contract, license, or municipal ownership
    6. Water or sewer services, by contract or otherwise
    7. Police protection through own department or contract with sheriff
- But, even if “exempt” . . . Watch out for 20% petition.





# City Annexation Strategies

- Encourage and support property owners who use 20% petitions
- Challenge “exemption” criteria in Boundary Commission

# Township Defenses to Annexation

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- Plan for future land uses and needed infrastructure
- Try to win in the Boundary Commission
- Defensive detachment before or after Boundary Commission decision
- “White Knight” Agreements under Act 425
- Charter townships—consider de-chartering?
- Settle with City under Act 425 or Act 108







# Planning is the Best Defense

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- If development is possible and will require water/sewer, begin now to plan for those services.
- Do not wait until development is on your doorstep to do something about these needed services; by then it will be too late.



# WINNING IN THE BOUNDARY COMMISSION

- Attack the legal sufficiency of the petition
- Address annexation criteria
- Non sewer/water cases (rare)
- Organization and preparation
- Experts (Planners, engineers)
- Maps and exhibits
- Tell your story.



# Defensive Detachment

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- Reverse of annexation
- Requirements for petition
- Procedures for processing petition
- Procedures for election
- Winning the election







# Detachment Case Studies

- Brighton Township
- Sturgis Township
- Big Rapids Township
- Wheatfield Township

# “WHITE KNIGHT” AGREEMENTS

- Use Act 425
- Enter into Act 425 Agreement with a different township, city or village.
- This will stop the annexation in its tracks
- Ex: City of Cadillac/Clam Lake Township/Haring Township







# Charter Townships—De-Charter?

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- Requires careful consideration
- If you became a charter township for other reasons (increased millage), de-chartering may not be an option.

# Act 7—Urban Cooperation Act

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- Act 7 of PA 1967; MCL 124.501
- Authorizes state political subdivisions (in Michigan, other states or Canada), including counties, cities, townships and provinces to exercise jointly any power or authority they each could exercise individually pursuant to an interlocal agreement approved by their governing bodies



# UCA Requirements

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## Interlocal Government Agreement

- ✓ Purpose of Agreement
- ✓ Duration
- ✓ Manner and source of funding
- ✓ Allocation of revenues
- ✓ Manner of transfer of employees
- ✓ Collections of rent, fees, etc.



# UCA Requirements, Cont.

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- ✓ Distribution of assets
- ✓ Manner of adjudicating disputes
- ✓ Accounting
- ✓ Public hearing on agreement
- ✓ If the agreement permits revenue sharing, provides for referendum by petition of 8% of registered electors in last election within 45 days of the public hearing
- ✓ Permits the creation of Board and the hiring of Administrative staff





# Act 425—Conditional Land Transfer Act

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- Act 425 of 1984; MCL 124.21
- Economic development projects
- Conditional transfer
- Negotiable matters
  - Tax and revenue sharing
  - Duration
  - Status at end
- Annexation exemption
- Procedures



# Settlements Under Act 425

## Act 425 allows a “conditional transfer”:

- Up to 50 years plus 50-year renewal
- Share property taxes and other revenues
- Share authority over the property during the agreement
- May stay with city or return to township at the end
- Very flexible terms, subject to agreement

## Consider a “global” Act 425 Agreement

- Set an area around the City
- Establish rules for how residents can voluntarily transfer to get sewer and water

# Act 425 Case Studies

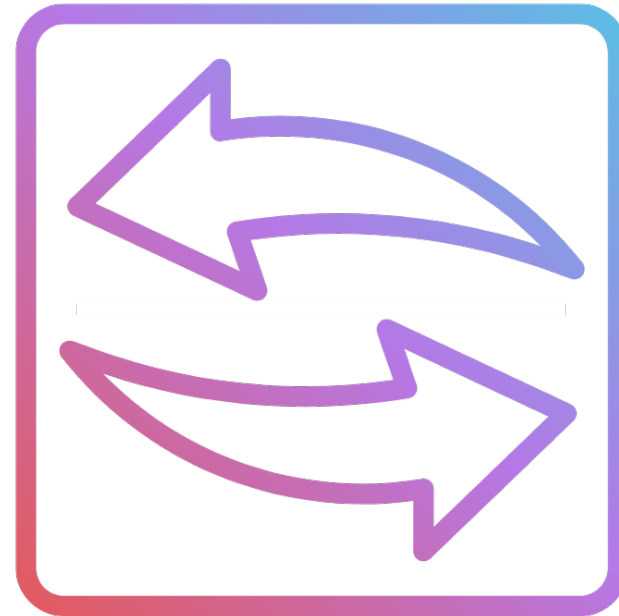
- Milan Township
- Grant Township
- Colfax Township
- Breitung Township



# Act 108

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- Allows property tax sharing
- Cities will require annexation
- No set time limitations
- Procedures
- Cities prefer Act 108 to Act 425





# Settlements Under Act 108

Act 108 is like Act 425, but:

- The property is annexed immediately and permanently to the city.
- No time limit for the sharing of taxes
- Act 108 property can be used as a base for future annexations





# Questions

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