

MAMA Municipal Law Program

Crowne Plaza West, Lansing MI
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Property Primer –

Issues Relating to Municipal Land Ownership and Use

Presented by

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Do You Own The Property?

- Deeds
 - Types of deeds
 - Warranty
 - Covenant
 - Quit Claim
- DDA ownership

This document is intended for the recorder's use only.

Michigan General Warranty Deed

This instrument was prepared by (and may be returned to):
Name: _____
Address: _____

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of _____ US Dollars (\$ _____) in hand, paid to _____,

with an address of _____,
(the "Grantor" or "Grantors"), does/do hereby grant, bargain, and sell, and convey and confirm to _____,

with an address of _____,
(the "Grantee" or "Grantees") its successors and assigns the following-described real property located in _____ County, Michigan, to-wit:

A complete legal description of the real property being conveyed by this instrument is attached hereto on page 4 as **EXHIBIT A**.

Tax Parcel ID Number _____

State of Michigan
County of _____

MICHIGAN COVENANT DEED

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of _____ US Dollars (\$ _____) in hand, paid to _____,

(hereinafter known as the "Grantor(s)) hereby grants and conveys to _____,

(hereinafter known as the "Grantee(s)) the following described real estate, situated in _____ County, Michigan, to-wit:

TOGETHER WITH all the improvements thereon and the appurtenances thereunto belonging AND covenant the title to the same, against any challenge claiming by, through or under, the Grantor, but not otherwise.

TO HAVE AND TO HOLD, the Property aforesaid with all and singular the rights, privileges, appurtenances, and immunities thereto belonging or in any wise appurtenant unto the said _____

esSign

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QUITCLAIM DEED

This Quitclaim Deed (the "Deed") is made effective this _____ day of _____, the Effective Date, between _____, the Grantor(s), and _____, the Grantee(s).

(Check one) ☐ an individual ☐ a married individual ☐ a corporation ☐ a limited liability company ☐ a partnership ☐ a trust ☐ an estate ☐ an intestate estate ☐ a partnership ☐ a limited liability company ☐ a partnership ☐ a trust ☐ an estate ☐ an intestate estate

And the following Grantee(s): (the "Grantee") _____

(Check one) ☐ an individual ☐ a married individual ☐ a corporation ☐ a limited liability company ☐ a partnership ☐ a trust ☐ an estate ☐ an intestate estate ☐ a partnership ☐ a limited liability company ☐ a partnership ☐ a trust ☐ an estate ☐ an intestate estate

WITNESSETH, that the Grantor, for and in consideration of the sum of \$ _____ (Dollars) and other good and valuable consideration, to be in hand paid by Grantee, has conveyed and does hereby convey unto Grantee all interest Grantor has, now or hereafter, in and to the real property (the "Property") located in _____ County, Michigan, and more particularly described as follows: _____, (Legal description of Property)

The Property will be held as: (Check one)
☐ Sole ownership
☐ Joint tenancy
☐ Tenancy in common
☐ Tenancy by the entirety

SUBJECT to the following:

(Exhibit A)

Continued

Do You Own The Property?

- Licenses
 - Permission to do some act on land without a permanent interest
 - Can be oral because there's no interest in the land
 - Are revocable at will regardless of promise for a particular duration
 - Are automatically revoked upon transfer of title by either party



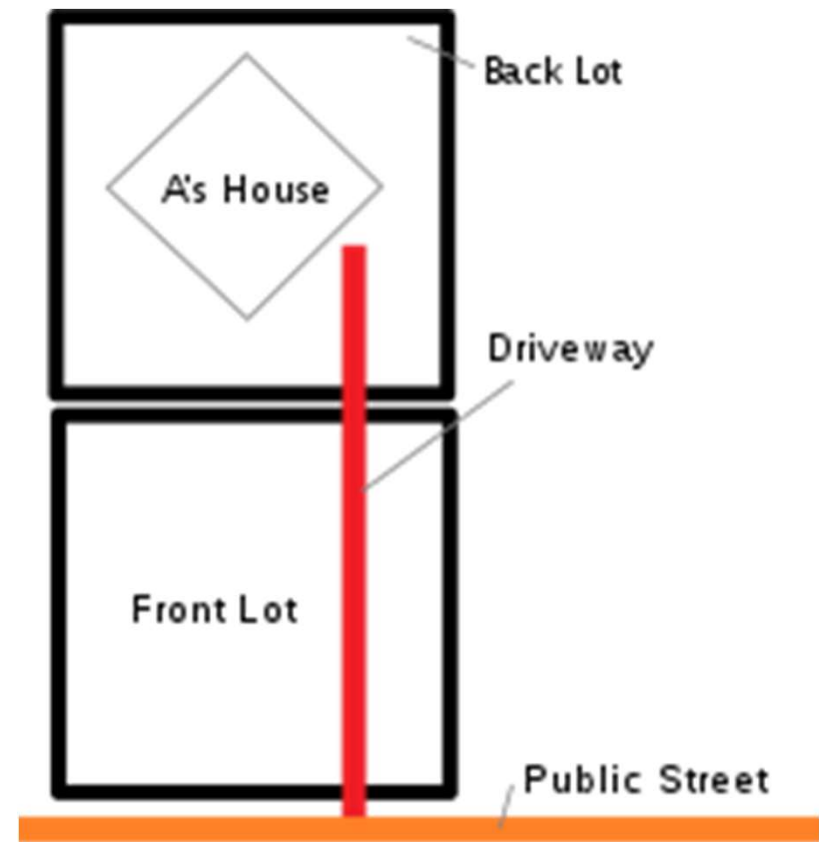
Continued

Do You Own The Property?

- Easements

The right to use another's land for a specified purpose

- Can be an express grant, by reservation/exception, or by agreement
- The language of the easement determines rights
- Limited to the purposes for which it was given
- Cannot be unilaterally modified
- The servient tenement may use the land for any purpose consistent with the easement

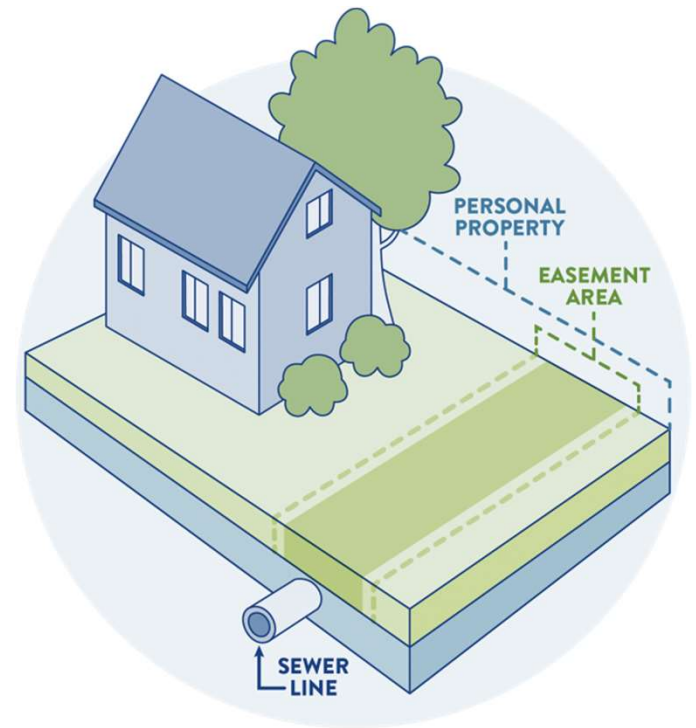


Continued

Do You Own The Property?

○ Types of easements:

- Easement appurtenant (benefitting land)
- Easement in gross (benefitting person/entity)
- Easement by necessity
- Proscriptive easements



Statute of Frauds

- Interests in land exceeding one year must be in writing
- MCL 566.106



What About Filing and/or Recording?

- Not required to have transferred an interest, but...
- Michigan is a race-notice state MCL 565.29
 - To protect your interest, you must record your interest
 - Your interest is void against a subsequent purchaser who records first in good faith
 - For valuable consideration
 - Without actual or constructive notice



Recording Requirements

- MCL 565.201
 - Margins
 - Font
 - Ink
 - Details



Acquiescence/Adverse Possession/Prescriptive Easements

- Hostile, open and notorious use > 15 years
- Initially you could not seek adverse possession of government land
- Change in the law - first at the state level, then at the local level
- MCL 600.5821 now provides statutory protection

In actions involving recovery/possession of land, including a public highway, street, alley, easement, or other public ground, a municipal corporation, political subdivision of this state, or county road commission is not subject to:

- The periods of limitations under this act.
- Laches
- A claim for adverse possession, acquiescence for the statutory period, or a prescriptive easement.

Are You Using The Property For The Appropriate Purpose?

- Restrictive Covenants
- Reversionary clauses
- Charter/Ordinance provisions



Consideration for Purchasing/Leases/Sales

- Constitutional Provisions – Article 9, § 18
 - Property must be sold for fair value
- Charter provisions – some require a vote of the electorate
- Michigan laws
 - MCL 117.5(e) – precluding sale of park if required by master plan
 - MCL 65.5 – requiring certain type of vote before sale of public land
 - Michigan Land Division Act – governs the splitting of large parcels
 - Exemptions from Seller's Disclosure MCL 565.953

Continued

Consideration for Purchasing/Leases/Sales

- Purchasing or other Ordinances
- Approval by the Board
 - OMA exemption MCL 15.268(d)
 - To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained
- Reservation of easement for public utilities
- Environmental issues
- Title issues

Forfeitures/Foreclosures

- *Rafaeli* – foreclosure can't result in a government windfall
- December 2020 amendment - procedures



Inverse Condemnation

MCL Chapter 213

- Resolution
- Good faith offer
- Declaration of Taking
- Escrow
- Court Action



Questions?



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