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If this opinion indicates that it is “FOR PUBLICATION,” it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

In re PETITION OF
MANISTEE COUNTY
TREASURER FOR
FORECLOSURE.

MANISTEE COUNTY
TREASURER,

Petitioner-Appellee,

v

ANN CULP and CHELSEA
KOETTER,

Respondents-Appellants.

UNPUBLISHED

June 13, 2024

No. 363723

Manistee Circuit
Court LC No. 20-
017073-CZ

Before: MALDONADO, P.J., and K. F. KELLY and
REDFORD, JJ.

PER CURIAM.

This case involves the proceeds that remained after the tax-foreclosure sales of property formerly owned by respondents, Ann Culp and Chelsea Koetter, and the payment of their delinquent taxes, interest, penalties, and fees. Respondents moved the trial

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court to distribute the remaining proceeds, and petitioner, Manistee County Treasurer, opposed their motions because respondents had not satisfied the statutory requirement to give timely notice of their intent to claim the proceeds. The trial court denied respondents' motions, and respondents now appeal by delayed leave granted.¹ We affirm.

I. BACKGROUND

A. STATUTORY FRAMEWORK

The Michigan Supreme Court held in *Rafaeli, LLC v Oakland Co*, 505 Mich 429, 484; 952 NW2d 434 (2020), that former owners of properties sold at tax-foreclosure sales for more than what was owed in taxes, interests, penalties, and fees have “a cognizable, vested property right to the surplus proceeds resulting from the tax-foreclosure sale of their properties.” This right continues to exist after fee simple title to the properties vested with the foreclosing governmental unit (FGU). The FGUs “retention and subsequent transfer of those proceeds into the county general fund amounted to a taking of plaintiffs’ properties under Article 10, § 2 of [Const 1963],” and the former owners were entitled to just compensation in the form of the return of the surplus proceeds. *Id.* at 484-485. When the Court decided *Rafaeli*, the General Property Tax Act (GPTA), MCL 211.1 *et seq.*, did not provide a means by which property owners could recover their surplus proceeds.

In response to *Rafaeli*, the Legislature passed 2020 PA 255 and 2020 PA 256, which were given immediate

¹ *In re Petition of Manistee Co Treasurer for Foreclosure*, unpublished order of the Court of Appeals, entered June 20, 2023 (Docket No. 363723).

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effect on December 22, 2020. These acts purported to “codify and give full effect to the right of a former holder of a legal interest in property to any remaining proceeds resulting from the foreclosure and sale of the property to satisfy delinquent real property taxes under the [GPTA]” Enacting Section 3 of 2020 PA 255; Enacting Section 3 of 2020 PA 256. At issue in the current appeal is MCL 211.78t, a provision added to the GPTA by 2020 PA 256. Section 78t provides the means for former owners to claim and receive any applicable remaining proceeds from the tax-foreclosure sales of their former properties.

Property owners whose properties sold at tax-foreclosure sales after July 17, 2020, the date the *Rafaelli* decision was issued, and who intend to recover any surplus proceeds from the sale are required to notify the FGU of their intent by submitting a “Notice of Intention to Claim Interest in Foreclosure Sales Proceeds” (Treasury Department Form 5743) by the July 1 immediately following the effective date of the foreclosure of their properties. Form 5743 must be notarized and filed with the FGU “by personal service acknowledged by the FGU or by certified mail, return receipt requested.” MCL 211.78t(2). Property owners who satisfy these requirements are “claimants.” In the January immediately following the sale or transfer of foreclosed properties, the FGU notifies the claimants about the total amount of remaining proceeds or the amount of shortfall in proceeds, among other things. MCL 211.78t(3)(i). The notice also instructs the claimants that they may file a motion in the circuit court in the foreclosure proceeding to recover any remaining proceeds payable to them. MCL 211.78t(3)(k). Such motion must be filed between February 1 and May 15 of the year

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immediately following the tax-foreclosure sale. MCL 211.78t(4). At the end of this claim period, the FGU responds by verifying that claimants timely filed Form 5743 and identifying any remaining proceeds.² MCL 211.78t(5)(i). The circuit court then conducts a hearing to determine the relative priority of the claimants' interests in any remaining proceeds. After requiring the payment of a sales commission to the FGU of 5% of the amount for which the property was sold, the trial court then "allocate[s] any remaining proceeds based on its determination of priority, and order[s] the FGU to pay the remaining proceeds to claimants in accordance with the trial court's determination." MCL 211.78t(9). The FGU has 21 days to pay the amount ordered by the trial court. MCL 211.78t(10).

B. PERTINENT FACTS AND PROCEEDINGS

The material facts in this case are not in dispute. Respondents owned real properties in Manistee County and fell behind on their property taxes. Petitioner, acting as the FGU, foreclosed on their properties, effective March 31, 2021. Petitioner sent respondents two notices informing them that their properties may be sold for more than they owed in taxes and associated costs, that they had the right to claim any excess proceeds, and how to exercise that right. Neither respondent conveyed to petitioner their intention to claim any remaining proceeds by submitting Form 5743 by July 1. The properties were sold at

² Specifically, the FGU files with the circuit court proof of service of the notice that the FGU mailed to claimants in January, along with additional information identifying the property and the details of its sale, including the amount of any remaining proceeds or shortfall in proceeds. MCL 211.78t(5)(i).

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auction, and the proceeds were applied to respondents' delinquent property taxes, interests, penalties, and fees. The properties sold for significantly more than respondents owed. Koetter's foreclosed property sold for \$106,500, and the proceeds remaining after satisfaction of her tax debt and associated costs were \$97,311.60. Culp's fore-closed property sold for \$69,500, leaving \$62,873.36 in remaining proceeds after satisfaction of her tax debt and associated costs. Respondents filed motions in the circuit court to recover the remaining proceeds, and petitioner opposed the motions because neither respondent had complied with the notice requirements in § 78t(2). After a hearing on the motions, the court took the matter under advisement and ultimately issued an order denying respondents' motions. The court also denied their joint motion for reconsideration. This appeal followed.

II. ANALYSIS

On appeal, respondents contend that the procedures described in MCL 211.78t are not the exclusive means for recovering surplus proceeds and that petitioner has committed an unconstitutional taking. They also contend that § 78t(2)'s deadline for filing a notice of intent to claim the proceeds is unenforceable and that they were not provided adequate due process. This Court resolved these issues in *In re Petition of Muskegon Co Treasurer for Foreclosure*, ___ Mich App ___, ___ NW2d ___ (2023) (Docket No. 363764). MCR 7.215(C)(2) provides that "[a] published opinion of the Court of Appeals has precedential value under the rule of stare decisis." Accordingly, we must conclude that respondents' claims fail, and we must affirm the trial court's order

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denying respondents' motions to disburse remaining proceeds.

A. STANDARDS OF REVIEW

"In reviewing the circuit court's resolution of a motion under MCL 211.78t, this Court reviews factual findings for clear error." *Muskegon Treasurer*, ___ Mich App at ___; slip op at 3. "[T]he interpretation and application of constitutional provisions and statutes" are questions of law subject to de novo review. *Id.* Whether a party has been afforded due process is reviewed de novo. *In re Moroun*, 295 Mich App 312, 331; 814 NW2d 319 (2012). "Whether a specific party has been unjustly enriched is generally a question of fact . . . [but] whether a claim for unjust enrichment can be maintained is a question of law" *Jackson v Southfield Neighborhood Revitalization Initiative*, ___ Mich App ___, ___; ___ NW2d ___ (2023) (Docket No. 361397); slip op at 27-28.

B. EXCLUSIVITY OF MCL 211.78T

Respondents first argue that MCL 211.78t does not provide the exclusive means of recovering the proceeds remaining from a tax-foreclosure sale after satisfaction of the tax debt and related costs. We disagree.

This Court resolved this issue in *Muskegon Treasurer*, ___ Mich App at ___; slip op at 5, holding that our Legislature intended MCL 211.78t as the exclusive means of recovering proceeds remaining after a tax-foreclosure sale and the satisfaction of the former owner's tax debt. The Legislature is presumed to have intended the meaning it plainly expressed, and in MCL 211.78t(11), the Legislature clearly expressed its intent that "Section 78t is the *exclusive*

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mechanism for a claimant to claim and receive any applicable remaining proceeds under the laws of this state.” *Id.* (quotation marks and citation omitted). “Giving ‘exclusive’ its plain, ordinary meaning, MCL 8.3a, our Legislature intended MCL 211.78t as the sole mechanism by which a former owner of foreclosed property could obtain any proceeds remaining from the tax-foreclosure sale and satisfaction of the owner’s delinquent taxes and associated costs.” *Id.*

As did the respondents in *Muskegon Treasurer*, respondents in the present case contend that alternate means of recovering the proceeds that remain after the sale or transfer of their property and the satisfaction of their tax debts and associated costs is suggested by: (1) the difference between *Rafaeli*’s “surplus proceeds” and the statute’s “remaining proceeds”; (2) use of the permissive “may” in MCL 211.78t(1); and (3) the fact that “claimants” are a subset of foreclosed property owners. From this, respondents contend that, even if MCL 211.78t is the exclusive means for claimants to recover remaining proceeds if they choose to do so, there still exists alternate means for foreclosed property owners to recover surplus proceeds.

As this Court explained in *Muskegon Treasurer*, to the extent that the respondents were claiming an ambiguity between “remaining proceeds” and “surplus proceeds,” this argument was really about whether 2020 PA 256 actually addressed the constitutional infirmity of the prior GPTA; it has “no bearing on whether the Legislature intended its amendment to the GPTA to be the exclusive mechanism for a former property owner to pursue a constitutional claim.” *Muskegon Treasurer*, ___ Mich

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App at ____; slip op at 5. This Court also rejected the respondents' interpretation of the use of "may" in MCL 211.78t(1) as signaling an alternate means of recovering remaining proceeds. Rather, it acknowledges that there are valid reasons why former property owners might exercise their discretion by not submitting Form 5743. Like the respondents in *Muskegon Treasurer*, respondents in the present incorrectly assumed "that the alternative to pursuing a claim under MCL 211.78t was to pursue a claim by some other means—rather, their alternative was not to claim an interest in the foreclosed property in the first place." *Id.*

In short, we are bound by the holding in *Muskegon Treasurer* that the Legislature intended MCL 211.78t as the exclusive mechanism for claiming and recovering remaining proceeds.

C. DUE PROCESS

Respondents next contend that their rights to procedural and substantive due process were violated when petitioner confiscated over \$168,000 from them without notice and on the basis of an arbitrary notice deadline. We disagree.

As this Court observed in *Muskegon Treasurer*, ____ Mich App at ____; slip op at 8, due process is "flexible and calls for such procedural protections as the particular situation demands." (Quotation marks, and citation omitted.) Courts generally consider the following three factors to determine what is required by procedural due process:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through

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the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. [*Id.*, quoting *Mathews v Eldridge*, 424 US 319, 335; 96 S Ct 893; 47 L Ed 2d 18 (1976).]

This Court held in *Muskegon Treasurer, id.*, that “[t]he statutory scheme set up by our Legislature and followed by petitioner satisfies due process.” Integral to the conclusion in that case was the fact that the petitioner followed the statutory scheme by providing the respondents with notices that adequately informed them of “their right to claim any excess proceeds and told them how to express their intent to exercise that right.” *Id.* Similarly, in this case, petitioner followed the statutory scheme by providing notices containing the required information. The statutory scheme satisfies due process, and petitioner followed the scheme. Therefore, respondents received the process that was due, and their claim of a violation of procedural due process must fail.

Nevertheless, respondents contend that the notices that they received were inadequate because: (1) they were discretionary; and (2) they did not identify the amount of proceeds that remained. Respondents contend that the notices set pursuant to MCL 211.78t(3) were inadequate because they were sent only to foreclosed property owners who complied with the notice deadline in § 78t(2). This Court rejected each of these arguments in *Muskegon Treasurer*. The statutory scheme requires FGUs to send each person with an interest in a forfeited property an explanation

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of their right to claim remaining proceeds mandated by MCL 211.78i(7). *Muskegon Treasurer*, ___ Mich App at ___; slip op at 8. This information was included in the notices that petitioner sent to respondents after their properties were foreclosed and with ample time to allow respondents to submit Form 5743 by July 1. Respondents' contention that the notices were inadequate because they did not identify the remaining proceeds arises from their faulty interpretation of *Rafaeli* as holding that a former property owner's right to recover remaining proceeds arises only *after* the tax-foreclosure sale when, in fact, "the right to collect excess proceeds existed before the tax-foreclosure sale," even if it was not compensable at that time. *Id.* at ___; slip op at 9.

Lastly, respondents' argument that the MCL 211.78t(3) notices were inadequate because they were sent only to those who complied with § 78t(2) reveals that "what respondents really want is different, i.e., postsale process." *Id.* at ___; slip op at 8. Like in *Muskegon Treasurer*, respondents advocate for a system in which FGUs inform foreclosed property owners of the results of the tax-foreclosure sale or transfer of their properties and provide a means for them to claim excess proceeds even if they did not timely file Form 5743. See *id.* However, that is not Michigan's system, and "[s]o long as the statutory scheme adopted by our Legislature comports with due process—and MCL 211.78t does—whether such a scheme makes sense or not, or whether a 'better' scheme could be devised, are policy questions for the Legislature, not legal ones for the Judiciary." *Id.* at ___; slip op at 9.

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Like this Court did in *Muskegon Treasurer*, we reject respondents' attempt to frame their "arguments in terms of substantive due process." *Id.* Respondents' substantive due-process theory merges with their takings claim under the Fifth and Fourteenth Amendments to the United States Constitution and under Const 1963, art 10, § 2. If "a constitutional claim is covered by a specific constitutional provision the claim must be analyzed under the standard appropriate to that specific provision, not under the rubric of substantive due process." *Id.*, quoting *United States v Lanier*, 520 US 259, 272 n 17; 117 S Ct 1219; 137 L Ed 2d 432 (1997) (alteration omitted).

D. HARSH AND UNREASONABLE CONSEQUENCES

Respondents next argue that trial courts should set aside MCL.211.78t(2)'s July 1 notice deadline because it occurs before their claim for surplus proceeds accrued and because enforcement of the deadline results in harsh-and-unreasonable consequences. This argument was likewise raised and rejected in *Muskegon Treasurer*.

Respondents' argument that the July 1 notice deadline is unreasonable because it occurs before their claim for surplus proceeds has accrued arises from the same misinterpretation of *Rafaeli* that we discussed above. In *Rafaeli*, 505 Mich at 476-477, the Supreme Court held that the right to recover proceeds remaining after the tax-foreclosure sale of property existed under English common law, was "firmly established in the early years of Michigan statehood," and was a common-law right commonly understood to exist by the ratifiers of the Michigan Constitution in 1963. Therefore, as we have already indicated,

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respondents' right to collect surplus proceeds existed before the tax-foreclosure sale, even if it was not yet a *compensable* claim. See *id.* Accordingly, petitioner's notices were not unreasonable simply because they were sent to respondents before the tax-foreclosure sale.

Respondents argue in their reply brief that the July 1 deadline should be set aside because the consequences for missing it are unreasonably harsh. As explained in *Muskegon Treasurer*, “[t]he ‘harsh-and-unreasonable’ consequences exception has been applied to statutes of limitations and notice requirements when the consequences of strictly enforcing a time period are so harsh and unreasonable that it effectively divested plaintiffs of the access to the courts intended by grant of the substantive right.” *Muskegon Treasurer*, ___ Mich App at ___; slip op at 5-6 (quotation marks omitted). This Court addressed the same argument in *Muskegon Treasurer*, ___ Mich App at ___; slip op at 5-7, and concluded that “[t]he circumstances of this case do not justify application of the harsh-and-unreasonable consequences exception to the statutory notice requirement of MCL 211.78t(2).” Because the relevant circumstances of the present case are identical with those in *Muskegon Treasurer*, we again reject application of the harsh-and-unreasonable consequences exception.

E. TAKINGS

Next, respondents argue that petitioner's “confiscation” of their surplus proceeds is an unconstitutional taking in violation of Takings Clauses in the federal and state Constitutions. Respondents are incorrect.

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The Fifth Amendment to the federal constitution, which applies to the states by operation of the Fourteenth Amendment,³ prohibits taking private property for public use without just compensation. US Const, Ams V and XIV. Similarly, the Michigan Constitution's Takings Clause prohibits the government from taking private property for public use "without just compensation being first made or secured in a manner prescribed by law." Const 1963, art 10, § 2. The Michigan and Federal Takings Clauses are not coextensive, see *AFT Mich v Michigan*, 497 Mich 197, 217; 866 NW2d 782 (2015), but respondents do not argue that Michigan's provision should be construed more broadly in the context of this case.

Once again, the same argument raised now was considered and rejected in *Muskegon Treasurer*.

Petitioner provided respondents with notice that adequately informed them of the steps to take to recover any proceeds that remained after the tax-foreclosure sale of their properties and the satisfaction of their tax debts and associated costs. The first step toward recovery was the minimally burdensome requirement of informing the FGU of the intent to assert a claim for any excess proceeds through the timely submission of Form 5743. Respondents did not take this action. [*Muskegon Treasurer*, ___ Mich App at ___; slip op at 10.]

³ See *Muskegon Treasurer*, ___ Mich App at ___; slip op at 9.

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Therefore, “respondents did not suffer a compensable taking.” *Id.*⁴

Respondents argue that petitioner has no legal interest in their surplus proceeds and that 2020 PA 256 does not authorize petitioner to seize funds, nor did it contemplate that petitioner would confiscate the proceeds and keep them indefinitely. Respondents’ argument mischaracterizes petitioner’s action and overlooks the statutory scheme in MCL 211.78. MCL 211.78m(8) addresses the distribution of proceeds from tax-foreclosure sales. An FGU must deposit money from tax-foreclosure sales into a restricted account, direct the investment of the account, and then use the funds as directed by MCL 211.78m(8)(a) through (i). When properties are sold for an amount at, or greater than, the minimum bid, the FGU must first satisfy the former property owner’s tax debt, including any relevant fees incurred by the FGU. MCL 211.78m(8)(a) through (b). The statute then requires the FGU to make payments “to claimants of remaining proceeds for the year ordered under section 78t” MCL 211.78m(8)(c). In the present case, no payments were ordered under § 78t because respondents did not satisfy the notice requirements of § 78t(2). Respondents do not identify any statutory provision relevant to the facts of this case that would allow petitioner to distribute proceeds to respondents when they have not complied with § 78t(2). To the extent that petitioner complied with the requirements of

⁴ Like in *Muskegon Treasurer*, we do not need to address whether the 5% sales commission is a taking “because respondents were never subject to the sales commission, given their failure to make a valid claim in the first place.” *Muskegon Treasurer*, ___ Mich App at ___; slip op at 11.

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§ 78m(8), it neither seized nor confiscated respondents' proceeds.

In their reply brief, respondents rely on *Knick v Scott Twp, Pennsylvania*, ___ US ___; 139 S Ct 2162; 204 L Ed 2d 558 (2019), to assert that their right to surplus proceeds is protected by the federal Takings Clause, regardless of state law. They also rely on *Perez v Campbell*, 402 US 637, 652; 91 S Ct 1704; 29 L Ed 2d 233 (1971), to argue that the federal Supremacy Clause preempts those sections of 2020 PA 256 that are interpreted or applied to deny those rights. The flaw in respondents' argument is that they do not have a federal Takings claim, and the Supremacy Clause has no application because the notice requirement in MCL 211.78t does not deprive respondents of their vested, constitutionally protected property right to recover remaining proceeds; rather, it provides a reasonable and minimally burdensome means of exercising that right that passes constitutional muster. See *Muskegon Treasurer*, ___ Mich App at ___; slip op at 11.

F. UNJUST ENRICHMENT

Lastly, respondents urge this Court to view petitioner's retention of their surplus proceeds as unjust enrichment and either to apply a constructive trust or to order a money judgment. We decline to do either.

Unjust enrichment is a cause of action to correct a party's unjust retention of a benefit owed to another. *Wright v Genesee Co*, 504 Mich 410, 417; 934 NW2d 805 (2019). Contrary to respondents' implication, petitioner was not "unjustly enriched." See *id.* Petitioner merely followed the statutory scheme set forth by our Legislature, under which petitioner lacks

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the discretion to disburse remaining proceeds to foreclosed property owners who did not comply with the notice requirements of MCL 211.78t(2). See MCL 211.78m(8). Moreover, as discussed above, the Legislature made clear that it intended Section 78 to be the exclusive mechanism for recovery of surplus proceeds, and by doing so, it implicitly abrogated equitable remedies established at common law. See *Muskegon Treasurer*, ___ Mich App at ___; slip op at 4.

Affirmed.

/s/ Allie Greenleaf Maldonado
/s/ Kirsten Frank Kelly
/s/ James Robert Redford

Appendix 17a

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF MANISTEE

IN THE MATTER OF THE
PETITION OF MANISTEE
COUNTY TREASURER FOR
THE FORECLOSURE OF
CERTAIN PARCELS OF
PROPERTY DUE TO
UNPAID 2018 AND PRIOR
YEARS' TAXES, INTEREST,
PENALTIES, AND FEES

Hon. David A.
Thompson

Case No. 20-
17073-CZ

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OPINION AND ORDER REGARDING CLAIM OF
CHELSEA KOETTER AND ANN CULP

At a session of said Court, held in the Circuit Courtroom,
Manistee County Courthouse, Manistee, Michigan, on the
29 day of August 2022.

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This matter comes before the Court on the petition of the Manistee County Treasurer to foreclose on several properties due to unpaid taxes from 2018 and prior years. This order addresses two Claimants, Chelsea Koetter and Anna Culp, who filed a Verified Motion to Disburse Remaining Proceeds From Tax Foreclosure Sale for certain parcels. The Court has read the motions, heard oral argument and reviewed the supplemental filings, and now DENIES all claimant's motions in full.

The Court finds that the Claimants failed to timely file a Notice of Intention to Claim Interest in Foreclosure Sales Proceeds as required by MCL 211.78t(2) after receiving ample and multiple notices regarding the procedure for doing so. The Petitioner also provided Claimants with notice of the Judgment which contained the information specified in MCL 211.78t(2).

With respect to Claimants arguments in their supplemental brief regarding the unconstitutionality of 2020 Public Act 256, the Legislature is the only correct venue for those arguments. Not only are these issues not properly before the court, but binding precedent exists which reflects the plain text of the statute. As our Supreme Court explained in *Sun Valley Foods Co. v Ward*, 460 Mich 230, 236-237; 596 NW2d 119 (1999), “[t]he words of a statute provide the most reliable evidence of its intent. If the language of the statute is unambiguous, the Legislature must have intended the meaning clearly expressed, and the statute must be enforced as written. No further judicial construction is required or permitted.”

Further, the doctrine of stare decisis requires “that a court must strictly follow decision handed down by

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higher courts within the same jurisdiction.” *In re AGD*, 327 Mich App 332, 339; 933 NW2d 751 (2019). As Petitioner properly cites in his supplemental brief, “[i]n *Rafaeli, LLC v Oakland County*, 505 Mich 429; 952 NW2d 434 (2020), the Michigan Supreme Court at footnote 108 asserts “[n]othing in our holding today prevents the Legislature from enacting legislation that would require former property owners to avail themselves of certain procedural avenues to recover the remaining proceeds. See, e.g. *Nelson*, 352 US at 110 & n10.” *Rafaeli*, supra at 473. The Michigan Legislature did just that when it enacted MCL 211.78t, et seq. as a result of the *Rafaeli* opinion. The exclusive procedure on how a claimant may obtain remaining proceeds is clearly enumerated in MCL 211.78t and Claimants Koetter and Culp failed to avail themselves of this process and their claims are barred.

NOW THEREFORE;

IT IS ORDERED that Claimants Chelsea Koetter and Anna Culp’s Verified Motions to Disburse Remaining Proceeds from Tax Foreclosure Sale are DENIED, and the Petitioner Treasurer may submit an appropriate order for disbursement of remaining excess tax sale proceeds.

IT IS FURTHER ORDERED that this is not a final order resolving all claims.

8/29/2022
Date

s/ David A. Thompson
Hon. David A. Thompson (P52090)
Chief Judge, 19th Circuit

Appendix 20a

Order **Michigan Supreme Court**
 Lansing, Michigan

November 22, 2024

Elizabeth T. Clement,
Chief Justice

167367

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

In re PETITION OF MANISTEE
COUNTY TREASURER FOR
FORECLOSURE.

MANISTEE COUNTY
TREASURER,

Petitioner-Appellee,

v

ANN CULP and CHELSEA
KOETTER,

Respondents-Appellants.

SC: 167367

COA: 363723

Manistee CC:

20-017073-CZ

On order of the Court, the application for leave to
appeal the June 13, 2024 judgment of the Court of
Appeals is considered, and it is DENIED, because we
are not persuaded that the questions presented
should be reviewed by this Court.

Appendix 21a

Seal of the Michigan Supreme Court
Lansing

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 22, 2024

s/ Larry S. Royster
Clerk

Appendix 22a

Order **Michigan Supreme Court**
 Lansing, Michigan

November 22, 2024

Elizabeth T. Clement,
Chief Justice

167367

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

In re PETITION OF MANISTEE
COUNTY TREASURER FOR
FORECLOSURE.

MANISTEE COUNTY
TREASURER,

Petitioner-Appellee,

v

ANN CULP and CHELSEA
KOETTER,

Respondents-Appellants.

SC: 167367

COA: 363723

Manistee CC:

20-017073-CZ

On order of the Court, the motion for reconsideration of this Court's November 22, 2024 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).

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Seal of the Michigan Supreme Court
Lansing

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 31, 2025

s/ Larry S. Royster
Clerk

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**MCL § 211.78m of the General Property Tax
Act, provides in part:**

* * *

(16)(c) “Minimum bid” is the minimum amount established by the foreclosing governmental unit for which property may be sold or transferred under subsections (1) to (3). The minimum bid must include all of the delinquent taxes, interest, penalties, and fees due on the property, and may include any additional expenses incurred by the foreclosing governmental unit in connection with the forfeiture, foreclosure, maintenance, repair, or remediation of the property or the administration of this act for the property, including, but not limited to, foreclosure avoidance, mailing, publication, personal service, legal, personnel, outside contractor, and auction expenses.

* * *

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**MCL § 211.78t of the General Property Tax Act,
provides in part:**

(1) A claimant may submit a notice of intention to claim an interest in any applicable remaining proceeds from the transfer or sale of foreclosed property under section 78m, subject to the following:

(a) For foreclosed property transferred or sold under section 78m after July 17, 2020, the notice of intention must be submitted pursuant to subsection (2).

* * *

(2) For foreclosed property transferred or sold under section 78m after July 17, 2020, by the July 1 immediately following the effective date of the foreclosure of the property, a claimant seeking remaining proceeds for the property must notify the foreclosing governmental unit using a form prescribed by the department of treasury. The department of treasury shall make the form available to the public on an internet website maintained by the department of treasury. A foreclosing governmental unit shall make the form available to the public on an internet website maintained by the foreclosing governmental unit if the foreclosing governmental unit maintains an internet website. Notice to a foreclosing governmental unit under this subsection must be by personal service acknowledged by the foreclosing governmental unit or by certified mail, return receipt requested. The notice must be notarized and include all of the following:

- (a) The name of the claimant.
- (b) The telephone number of the claimant.

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(c) The address at which the claimant wants to receive service.

(d) The parcel identification number of the property, and, if available, the address of the property.

(e) An explanation of the claimant's interest in the property.

(f) A description of any other interest in the property immediately before the foreclosure under section 78k held by other persons and known by the claimant, including a lien or a mortgage.

(g) A sworn statement or affirmation by the claimant that the information included in the notice is accurate.

(3) Not later than the January 31 immediately succeeding the sale or transfer of the property under section 78m, the foreclosing governmental unit shall send by certified mail, return receipt requested, a notice in a form prescribed by the department of treasury to each claimant that notified the foreclosing governmental unit pursuant to subsection (2). The notice must include the following information:

(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

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(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale cost recovery for the property, which must be equal to 5% of the amount under subdivision (f).

(h) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the foreclosing governmental unit.

(i) The total amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred by the foreclosing governmental unit in foreclosing and selling the property under section 78m exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(j) The name and address provided by each claimant for the property pursuant to subsection (2).

(k) A statement that a claimant must file pursuant to subsection (4) a motion with the circuit court in the same proceeding in which the judgment of foreclosure of the property was effective under section 78k to claim any remaining proceeds payable to the claimant. The statement must include the case number assigned to the proceeding, the name of the judge assigned to the proceeding, and contact information for the clerk of the circuit court.

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(4) For a claimant seeking remaining proceeds from the transfer or sale of a foreclosed property transferred or sold under section 78m after July 17, 2020, after receipt of a notice under subsection (3), the claimant may file a motion with the circuit court in the same proceeding in which the judgment of foreclosure of the property was effective under section 78k to claim any portion of the remaining proceeds that the claimant is entitled to under this section. A motion under this subsection must be filed during the period beginning on February 1 immediately succeeding the date on which the property was sold or transferred under section 78m and ending on the immediately succeeding May 15, and may not be filed after that May 15 if notice was provided under section 78i of the show cause hearing under section 78j and the foreclosure hearing under section 78k before the show cause hearing and the foreclosure hearing, notwithstanding section 78l. The motion must indicate both of the following:

(a) Whether the claimant or an entity in which the claimant held a direct or indirect interest purchased the property under section 78m.

(b) Whether the claimant does or does not hold a direct or indirect interest in the property at the time the motion is filed.

(5) At the end of the claim period described in subsection (4), the foreclosing governmental unit shall file with the circuit court proof of service of the notice required under subsection (3) and, for each property for which a claimant provided notice under subsection (2), a list of all of the following information:

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(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale commission for the property, which must be equal to 5% of the amount under subdivision (f).

(h) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the county treasurer.

(i) The amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred in foreclosing and selling the property exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(j) The name and address provided by each claimant for the property pursuant to subsection (2).

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(6) For a claimant seeking remaining proceeds from the transfer or sale of a foreclosed property transferred or sold under section 78m pursuant to this subsection, the claimant must notify the foreclosing governmental unit using the form prescribed by the department of treasury under subsection (2) in the manner prescribed under subsection (2) by the March 31 at least 180 days after any qualified order. By the following July 1, the foreclosing governmental unit shall provide each claimant seeking remaining proceeds for the property and notifying the foreclosing governmental unit under this subsection with a notice relating to the foreclosed property in the form and manner provided under subsection (3). To claim any applicable remaining proceeds to which the claimant is entitled, the claimant must file a motion with the circuit court in the same proceeding in which a judgment of foreclosure was effective under section 78k by the following October 1. The motion must be certified and include all of the following:

- (a) The name of the claimant filing the motion.
- (b) The telephone number of the claimant.
- (c) The address at which the claimant wants to receive service.
- (d) The parcel identification number of the property, and, if available, the address of the property.
- (e) An explanation of the claimant's interest in the property.
- (f) A description of any other interest in the property, including a lien or a mortgage, immediately before the foreclosure under section 78k held by any other person or entity and known by the claimant.

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(g) A statement indicating that the claimant or an entity in which the claimant held a direct or indirect interest did or did not purchase the property under section 78m.

(h) A statement indicating that the claimant does or does not hold a direct or indirect interest in the property at the time the motion is filed.

(i) A sworn statement or affirmation by the claimant that the information included in the motion is accurate.

(7) At the end of the claim period described in subsection (4) or after receipt of a motion under subsection (6), the foreclosing governmental unit shall file with the circuit court proof of service of the notice required under subsection (3) and, for each property for which a claimant provided notice under subsection (2) or filed a motion under subsection (6), a list of all of the following information:

(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

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(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale commission for the property, which must be equal to 5% of the amount under subsection (f).

(h) The amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred in foreclosing and selling the property exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(i) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the county treasurer.

(j) The name and address provided by each claimant for the property pursuant to subsection (2) or (6).

(8) A motion by a claimant under this section must provide the specific basis for the claimant's asserted interest in some or all of the remaining proceeds, including the claimant's interest in the property immediately before its foreclosure under section 78k and documentation evidencing that interest. The claimant also shall affirm that the claimant did not transfer and was not otherwise divested of the claimant's interest in the property before the judgment of foreclosure was effective under section 78k. If a claimant had a lien or other security interest in the property at the time the judgment of foreclosure was effective under section 78k, the claimant shall indicate the amount owed to the claimant pursuant to the

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lien or security interest and the priority of the claimant's lien or security interest. The motion must be verified and include a sworn statement or affirmation by the claimant of its accuracy. A claimant filing a motion under this section must serve a copy of the motion on the foreclosing governmental unit.

(9) After the foreclosing governmental unit responds to a claimant's motion under this section, the court shall set a hearing date and time for each property for which 1 or more claimants filed a motion under this section and notify each claimant and the foreclosing governmental unit of the hearing date at least 21 days before the hearing date. At the hearing, the court shall determine the relative priority and value of the interest of each claimant in the foreclosed property immediately before the foreclosure was effective. The foreclosing governmental unit may appear at the hearing. The burden of proof of a claimant's interest in any remaining proceeds for a claimant is on the claimant. The court shall require payment to the foreclosing governmental unit of a sale commission equal to 5% of the amount for which the property was sold by the foreclosing governmental unit. The court shall allocate any remaining proceeds based upon its determination and order that the foreclosing governmental unit pay applicable remaining proceeds to 1 or more claimants consistent with its determination under this subsection. An order for the payment of remaining proceeds must not unjustly enrich a claimant at the expense of the public. If a claimant indicated in the motion that the claimant or an entity in which the claimant held a direct or indirect interest purchased the property under section 78m or if the claimant indicated in the motion that the

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claimant held a direct or indirect interest in the property at the time the motion was filed, the order must require remaining proceeds to be applied to any unpaid obligations payable to a tenant at the time the foreclosure was effective or any unpaid civil fines relating to the property owed at the time the foreclosure was effective for violation of an ordinance authorized by section 4l of the home rule city act, 1909 PA 279, MCL 117.4l, in the local tax collecting unit in which the property is located. The order must provide for the payment of any unpaid amounts not otherwise payable to another claimant owed by a claimant to satisfy a state, federal, or local tax collecting unit tax lien on the property immediately preceding the effective date of the foreclosure under section 78k if the lien had priority over the claimant's interest in the property. The order also must provide that any further claim by a claimant under this act relating to the foreclosed property is barred.

(10) The foreclosing governmental unit shall pay the amounts ordered by the court to the claimants and any other persons ordered by the court under subsection (9) within 21 days of the order pursuant to section 78m.

(11) This section is the exclusive mechanism for a claimant to claim and receive any applicable remaining proceeds under the laws of this state. A right to claim remaining proceeds under this section is not transferable except by testate or intestate succession.

(12) As used in this section:

(a) "Claimant" means a person with a legal interest in property immediately before the effectiveness of a judgment of foreclosure of the property under

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section 78k who seeks pursuant to this section recognition of its interest in any remaining proceeds associated with the property.

(b) “Remaining proceeds” means the amount equal to the difference between the amount paid to the foreclosing governmental unit for a property due to the sale or transfer of the property under section 78m and the sum of all of the following:

(i) The minimum bid under section 78m.

(ii) All other fees and expenses incurred by the foreclosing governmental unit pursuant to section 78m in connection with the forfeiture, foreclosure, sale, maintenance, repair, and remediation of the property not included in the minimum bid.

(iii) A sale commission payable to the foreclosing governmental unit equal to 5% of the amount paid to the foreclosing governmental unit for the property.

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF MANISTEE

IN THE MATTER OF THE
PETITION OF MANISTEE
COUNTY TREASURER FOR
THE FORECLOSURE OF
CERTAIN PARCELS OF
PROPERTY DUE TO
UNPAID 2018 AND PRIOR
YEARS' TAXES, INTEREST,
PENALTIES, AND FEES

Hon. David A.
Thompson, Circuit
Judge

File No. 20-17073-
CZ

Lucas Middleton (P79493)
Attorney for Petitioner
622 W. Kalamazoo Ave
Kalamazoo, MI 49007
(269) 585-1271

JUDGMENT OF FORECLOSURE

At a session of said Court held on the 12th of February
2021, in the Manistee County Courthouse located in the
City of Manistee, County of Manistee, State of Michigan.

PRESENT: THE HONORABLE DAVID A. THOMPSON,
CIRCUIT JUDGE

This matter was initiated with the filing of a
Petition on or about June 3, 2020. The Petition
identified parcels of property forfeited to the Manistee
County Treasurer under MCL 211.78g for unpaid
2018 and prior years' truces and set forth the amount
of the unpaid delinquent taxes, interest, penalties,

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and fees, for which each parcel of property was forfeited, The Petition sought judgment in favor of the Manistee County Treasurer (“Petitioner”) for the forfeited unpaid delinquent taxes, interest, penalties, and fees, listed against each parcel of property. The Petition further sought a judgment vesting absolute title to each parcel of property in the Petitioner, without right of redemption, as to parcels not redeemed on or before March 31, 2021.

Before the hearing on the Petition, Petitioner filed with the Clerk of the Court proof of service of the notice of show cause hearing and notice of foreclosure hearing, proof of publication, and proof of personal visit, as required by MCL.211.78k(l), for each remaining parcel.

A hearing on the Petition and objections thereto was held on February 12th, 2021, at which time all parties interested in the forfeited properties who appeared were heard.

NOW, THEREFORE, the Court makes the following findings of fact:

1. Petitioner has complied with the procedures for the provision of notice by mail, for visits to forfeited property, and for notice by publication all as outlined in MCL 211.78i.

2. Those parties entitled to notice and an opportunity to be heard have been provided that notice and opportunity.

NOW, THEREFORE, IT IS ORDERED:

- A. The amount of forfeited delinquent taxes, interest, penalties, and fees, set forth in the list of foreclosed property attached to this Judgment (ATTACHMENT A) is valid and judgment of

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foreclosure is entered in favor of Petitioner against each parcel of property, separately, for payment of the amount set out against the parcel.

B. Fee simple title to each parcel of property foreclosed upon by this Judgment will vest absolutely in Petitioner, subject to the limitations of paragraphs C and D, below, without further rights of redemption, if all forfeited delinquent taxes, interest, penalties, and fees, foreclosed against such parcel, plus any additional interest required by statute, are not paid to the Petitioner on or before March 31, 2021.

C. All liens against each parcel, including any lien for unpaid taxes or special assessments, except future installments of special assessments, and liens recorded by Petitioner or the State of Michigan pursuant to the Natural Resources and Environmental Protection Act, MCL 324.101 *et seq.*, are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees, against such parcel, plus any additional interest required by statute, are not paid to the Petitioner on or before March 31, 2021.

D. All existing recorded and unrecorded interests in each parcel are extinguished except: (1) a visible or recorded easement or right-of-way, (2) private deed restrictions, (3) restrictions or other governmental interests imposed pursuant to the Natural Resources and Environmental Protection Act, *supra.*, (4) interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease recorded before the date of the filing of this Petition, (5) interests in property assessable as personal property under section MCL 211.8(g), and (6) interests preserved under Section 1(3) of the Dormant Minerals Act, MCL 554.291(3), if

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all forfeited delinquent taxes, interest, penalties, and fees, against such parcel, plus any additional interest required by statute, are not paid to the Petitioner on or before March 31, 2021.

E. The Petitioner has good and marketable fee simple title to each parcel, subject to the limitations of paragraphs C and D, above, if all delinquent taxes, interest, penalties, and fees, against the parcel, plus any additional interest required by statute, are not paid to the Petitioner on or before March 31, 2021.

F. This is a final order with respect to the foreclosure of each parcel affected by this Judgment and unless appealed pursuant to MCL 211.78k(7) shall not be modified, stayed, or held invalid after March 31, 2021 unless there is a contested case concerning a parcel in which event this Judgment, with respect to the parcel involved in such contested case, shall not be modified, stayed, or held invalid 21 days after the entry of judgment in such contested case.

G. Pursuant to MCL 211.78t(2) any person, (hereinafter referred to as a “claimant” as that term is defined in MCL 211.78t(12)(a)), who had a legal interest in any property subject to this Judgment immediately prior to the period referenced in paragraph F may seek recognition of their interest in any remaining proceeds as that term is defined in MCL 211.78t(12)(b) by using a form prescribed by the Michigan Department of Treasury to so notify Petitioner. The notice must be notarized and made by personal service acknowledged by Petitioner or by certified mail, return receipt requested, in either case by the July 1 immediately following the effective date

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of this Judgment and contain the information specified in MCL 211.78t(2).

H. Pursuant to MCL 211.78t(3), not later than the January 31 immediately succeeding the sale or transfer by Petitioner of property subject to this Judgment pursuant to MCL 211.78m Petitioner shall send by certified mail, return receipt requested, to each claimant that notified Petitioner pursuant to MCL 211.78t(2), a notice in a form prescribed by the Michigan Department of Treasury, informing each claimant of the information specified in MCL 211.78t(3).

I. Pursuant to MCL 211.78t(4) after receiving the notice specified in MCL 211.78t(3) a claimant may seek the remaining proceeds from property in which the claimant had a legal interest immediately prior to the period referenced in paragraph F by filing a motion with this Court using the same case number that appears on this Judgment. Pursuant to MCL 211.78t(4) a motion under said subsection must be filed during the period beginning on February 1 immediately succeeding the date on which the property was sold or transferred under MCL 211.78m and ending on the immediately succeeding May 15 and must indicate whether the claimant or an entity in which the claimant held a direct or indirect interest purchased the property under MCL 211.78m and whether the claimant does or does not hold a direct or indirect interest in the property at the time the motion is filed. The motion must also satisfy the requirements of MCL 211.78t(8).

J. Pursuant to MCL 211.78t(5), at the end of the period referenced in paragraph I and specified in MCL

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211.78t(4), Petitioner shall file with this Court proof of service of the notice referenced in paragraph H and for each property for which a claimant provided the notice referenced in paragraph G Petitioner shall also file with this Court the information specified in MCL 211.78t(5)(a)-(j).

K. Pursuant to MCL 211.78t(9), the Court shall set a hearing date and time for each property for which one or more claimants filed a motion and notify each claimant and the Petitioner at least 21 days before such hearing date. At the hearing this Court shall determine the relative priority and value of the interest of each claimant as specified in MCL 211.78t(9) and shall issue orders in accordance with that subsection. Pursuant to MCL 211.78t(10), Petitioner shall, within 21 days of said orders, pay any amounts ordered by the Court.

L. Petitioner may continue to remove parcels from the list included in the attached ATTACHMENT A for redemption, exemption, or otherwise in accordance with law, up to March 31, 2021.

<u>2/12/2021</u>	<u>s/ David A. Thompson</u>
Date	DAVID A. THOMPSON
	Circuit Judge

ATTACHMENT A
FORFEITURE LIST FOR MANISTEE COUNTY
For 2020 Forfeitures of 2018 and prior taxes
All Records

* * * * *

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PARCEL	TAX DUE	INTEREST / FEES DUE	TOTAL DUE	TAX YEARS DELINQUENT
51-02- 581-711- 01	1,199.59	831.93	2,031.52	2018

TILLSONS ADD TO VILL OF BEAR LAKE LOTS 1,
2, 3 EXC COM NE COR LOT 3, TH W ALG N LI 20
FT, TH SE'LY TO SECOR OF LOT 3, TH N ALG E LI
TO POB, BLK 4, ALSON 1/2 OF ALLEY LYING ADJ
TO LOTS 1 THRU 3 AS VAC IN LIBER 689 PAGE 926
7 693 PAGE 868 [[SALE(75) 75 1342 0057 (89) 350
4522 0252 (92) 440 1560 0261, 264 (97) 437 1646 0195
(98) 6689 0926, 6693 0868 (99) 885 1716 0617 (04)
1082 1912 0305

Property Address: 8073 LAKE ST
Owner: KOETTER CHELSEA MARIE
8073 LAKE ST BEAR LAKE MI 49614
Taxpayer:

* * * * *

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PAYMENT DEADLINE

Persons that hold an interest in real estate with unpaid **2018** and/or previous years taxes will **LOSE ALL TITLE INTEREST IN THAT PROPERTY AFTER MARCH 31, 2021**

Payment of 2018 and/or previous years taxes **MUST BE PAID IN FULL** by end of business **MARCH 31, 2021.**

or this property **WILL BE FORECLOSED**

THERE IS NO WAY TO RECOVER THIS PROPERTY AFTER MARCH 31, 2021.

If this property is foreclosed, you have a right to claim any excess funds remaining after the sale or transfer of the property by filing a Notice of Intention form by JULY 1, 2021 (see below).

Reference #: 51-18-00048

Property County: Manistee

Parcel ID #: 02-581-711-01

Street Address: 8073 LAKE ST, BEAR LAKE

Legal Description:

TILLSONS ADD TO VILL OF BEAR LAKE LOTS 1, 2, 3
EXC COM NE COR LOT 3, TH W ALG N LI 20 FT, TH
SELY TO SE COR OF LOT 3, TH N ALG E LI TO POB,
BLK 4, ALSO N 1/2 OF ALLEY LYING ADJ TO LOTS 1
THRU 3 AS VAC IN LIBER 689 PAGE 926 7 693 PAGE
868 [[SALE(75) 75 1342 0057 (89) 350 4522 0252 (92) 440
1560 0261, 264 (97) 437 1646
0195 (98) 6689 0926, 6693 0868 (99) 885 1716 0617 (04)
1082 1912 0305

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Extra Info About This Property:

**NOT PERSONAL CHECKS. CERTIFIED
FUNDS ONLY**

**CONTACT THE MANISTEE COUNTY
TREASURER AT (231)-723-3173 FOR THE
CURRENT PAYOFF AMOUNT**

Please disregard this notice if you have recently paid
this amount, or if you claim no interest in this
property.

**VERIFY PAYMENT OF TAXES BY YOUR
LENDER** if you escrow tax payments with your
Mortgage.

**This real estate is in the process of FORE-
CLOSURE for unpaid 2018 and/or previous
years property taxes.**

THE CIRCUIT COURT FOR THE COUNTY OF
MANISTEE HAS ENTERED A JUDGMENT WHICH
BECOMES EFFECTIVE MARCH 31, 2021 VESTING
TITLE IN THE FORECLOSING GOVERNMENTAL
UNIT.

It is recommended that you pay, or notify persons that
are responsible for paying these taxes immediately to
prevent loss of this property.

IF THIS PROPERTY IS FORECLOSED, it may later
be sold for more than the total amount due to the
Foreclosing Governmental Unit. Any person who held
an interest in this property at the time of foreclosure
has a right to file a claim for remaining excess money,
if any. In order to make a claim, **YOU MUST SUBMIT
A NOTICE OF INTENTION FORM TO THE**

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Manistee County Treasurer **NO LATER THAN
JULY 1, 2021.**

If you have questions or comments about this process, contact us by sending email to manistee@title-check.com or calling 269-226-2600.

Title Check LLC is a title search and notice contractor and an authorized representative of the Foreclosing Governmental Unit.

Manistee	51-18-00048
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OFFICIAL BUSINESS
Manistee County Treasurer

(Muskegon Postal/Bar Code)
622 W KALAMAZOO AVE
Kalamazoo MI 49007-3308

FIRST CLASS
MAIL
U.S. POSTAGE
PAID
Kalamazoo MI
Permit No. 338

CHELSEA MARIE KOETTER
8073 LAKE ST
BEAR LAKE MI 49614-9677

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NOTICE OF FORECLOSURE

As of March 31, 2021, the property described below has been **FORECLOSED** by order of the Manistee County Circuit Court due to unpaid 2018 and/or previous years taxes. This property is now owned by the **Manistee County Treasurer**

Any interest that you possessed in this property prior to foreclosure, including any equity associated with your interest, has been lost.

This property may later be sold or transferred for more than the total amount due to the Foreclosing Governmental Unit. Any person that held an interest in this property at the time of foreclosure has a right to file a claim for **REMAINING PROCEEDS** pursuant to MCL 211.78t.

In order to make a claim, you must take action no later than JULY 1, 2021 as explained below.

Reference #: 51-18-00048

Property County: Manistee

Parcel ID #: 02-581-711-01

Street Address: 8073 LAKE ST, BEAR LAKE

Legal Description:

TILLSONS ADD TO VILL OF BEAR LAKE LOTS 1, 2, 3
EXC COM NE COR LOT 3, TH W ALG N LI 20 FT, TH
SELY TO SE COR OF LOT 3, TH N ALG E LI TO POB,
BLK 4, ALSO N 1/2 OF ALLEY LYING ADJ TO LOTS 1
THRU 3 AS VAC IN LIBER 689 PAGE 926 7 693 PAGE
868 [[SALE(75) 75 1342 0057 (89) 350 4522 0252 (92) 440
1560 0261, 264 (97) 437 1646

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0195 (98) 6689 0926, 6693 0868 (99) 885 1716 0617 (04)
1082 1912 0305

Extra Info About This Property:

CLAIMS FOR REMAINING PROCEEDS

The property will be offered for sale or transfer in accordance with state law. Any person that held an interest in this property at the time of foreclosure has a right pursuant to MCL 211.78t to file a claim for remaining proceeds that are realized from the sale or transfer of this property. Remaining proceeds are those proceeds left over, if any, after the total amount due to the Foreclosing Governmental Unit is paid.

In order to make a claim, YOU MUST SUBMIT A NOTICE OF INTENTION TO CLAIM INTEREST IN FORECLOSURE SALES PROCEEDS FORM 5743 TO THE MANISTEE COUNTY TREASURER **NO LATER THAN JULY 1, 2021**. You can access Form 5743 by visiting www.miTaxNotice.com/form5743 or by contacting the Manistee County Treasurer.

You must submit the completed Form 5743 by **CERTIFIED MAIL OR PERSONAL DELIVERY** to The Manistee County Treasurer, 415 Third St, Manistee, MI 49660 no later than **July 1, 2021**.

If you submit Form 5743, the Foreclosing Governmental Unit will send you a notice no later than January 31, 2022 informing you whether any remaining proceeds are available and providing additional information about how to file a claim in the Muskegon County Circuit Court to claim such remaining proceeds.

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The claims process is described in MCL 211.78t
which can be viewed at
<http://legislature.mi.gov/doc.aspx?mcl-211-78t>

You are not required to be represented by an attorney in order to file Form 5743 though you may retain or consult an attorney if desired. Those who wish to consult with an attorney about this notice or your ability to make a claim for remaining proceeds under MCL 211.78t may go to the State Bar of Michigan's legal resource and referral web page at <https://lrs.michbar.org> or may call (800) 968-0738 for assistance in finding private legal counsel.

If you have questions or comments about this process, contact us by sending email to manistee@title-check.com or calling 269-226-2600. Title Check LLC is a title search and notice contractor and an authorized representative of the Foreclosing Governmental Unit. Form 5743 must be filed with Manistee County Treasurer and SHOULD NOT be directed to Title Check, LLC.

Manistee	51-18-00048
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OFFICIAL BUSINESS
Manistee County Treasurer

(Manistee Postal/Bar Code)
622 W KALAMAZOO AVE
Kalamazoo MI 49007-3308

FIRST CLASS MAIL U.S. POSTAGE PAID Kalamazoo MI Permit No. 338

CHELSEA MARIE KOETTER
8073 LAKE ST
BEAR LAKE MI 49614-9677

Notice of Intention to Claim Interest in Foreclosure Sales Proceeds

Issued under authority of Public Act 206 of 1993; Section 211.78t.

Beginning with 2021 foreclosure sales and transfers, a person that intends to make a claim for excess sales proceeds must complete and return this notarized notice to the Foreclosing Governmental Unit by July 1 in the year of foreclosure. This notice must be delivered via certified mail, return receipt requested, or by personal service. Completing and returning this form evidences an intent to make a future claim but is not itself a claim for sales proceeds.

PART 1: APPLICANT INFORMATION			
Claimant Last Name or Business Name <u>Koehler</u>	Claimant First Name <u>Debra</u>	Middle Initial <u>M</u>	
Claimant's Address to be used for Service (Street Number, City, State, ZIP Code) <u>8073 Lake Street</u>			
Claimant's Telephone Number <u>231</u>	Claimant's E-mail Address <u>[REDACTED]</u>	<u>@yahoo.com</u>	
PART 2: PROPERTY IDENTIFICATION			
County <u>Manistee</u>	Local Taxing Municipality <u>Bear Lake Township</u>	Foreclosure Year <u>2018</u>	
Parcel Address (Street Number, City, State, ZIP Code) <u>8073 Lake St</u>		Local Parcel Number	
PART 3: EXPLANATION OF INTEREST			
I hereby claim an interest in the above parcel, as of the foreclosure date, due to the reason(s) selected below:			
<input type="checkbox"/> Warranty Deed Dated: _____ Recorded in Liber/Page: _____			
<input checked="" type="checkbox"/> Quit Claim Deed Dated: <u>10/13/2018</u> Recorded in Liber/Page: <u>2018 R 005 1910</u>			
<input type="checkbox"/> Mortgage Dated: _____ Amount: _____ Recorded in Liber/Page: _____			
<input type="checkbox"/> Other Lien Dated: _____ Amount: _____ Nature of Lien: _____ Recorded in Liber/Page: _____			
I know of the following other interests in this property, which were in effect immediately prior to foreclosure:			
<div style="border: 1px solid black; padding: 5px;">Didn't pay taxes in 2018, single mom of two boys. Been struggling with Anxiety & depression</div>			
PART 4: CERTIFICATION AND NOTARY			
I hereby swear that the above information is true and correct in relation to the subject property			
Claimant's Signature <u>Debra Koehler</u>	Date <u>7/9/2021</u>		
Subscribed and sworn to before me by Applicant on the following date:			
Notary's Signature <u>Undrey Marquardt</u>	Commission Expiration <u>Notary Public - State of Michigan</u>	Notary Acting in Capacity of <u>Notary Public - State of Michigan</u>	
Notary State of Authorization <u>Michigan</u>	Notary County of Authorization <u>Manistee</u>	My commission expires <u>02/04/2025</u>	
FORECLOSING GOVERNMENTAL UNIT RECEIPT ACKNOWLEDGMENT			
FGU Staff Signature of Receipt <u>Candy L. Dancz</u>	FGU Staff Printed Name <u>CANDY L. DANCZ</u>	Date of Receipt <u>7/09/2021</u>	



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Michigan Department of Treasury
5743 (02-21)

Notice of Intention to Claim Interest in Foreclosure Sales Proceeds

Issued under authority of Public Act 206 of 1893; Section
211.78t

Beginning with 2021 foreclosure sales and transfers, a person that intends to make a claim for excess sales proceeds must complete and return this notarized notice to the Foreclosing Governmental Unit by July 1 in the year of foreclosure. This notice must be delivered via certified mail, return receipt requested, or by personal service. Completing and returning this form evidences an intent to make a future claim but is not itself a claim for sales proceeds.

PART 1: APPLICANT INFORMATION		
Claimant Last Name or Business Name Koetter	Claimant First Name Chelsea	Middle Initial M
Claimant's Address to be Used for Service (Street Number, City, State, Zip Code) c/o Visser and Associates, PLLC, 2480 44th St. SE, Suite 150, Kentwood, MI 49512		
Claimant's Telephone Number: 616-531-9860	Claimant's E-mail Address donovan@visserlegal.com	
PART 2: PROPERTY IDENTIFICATION		
County Manistee	Local Taxing Municipality Bear Lake Township	Foreclosure Year 2021
Parcel Address (Street Number, City, State, ZIP Code)	Local Parcel Number 02-581-711-01	

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8073 Bear Lake St. Bear Lake MI 49614			
PART 3: EXPLANATION OF INTEREST			
I hereby claim an interest in the above parcel, as of the foreclosure date, due to the reason(s) selected below:			
<input type="checkbox"/> Warranty Deed Dated: _____ Recorded in Liber/Page: _____			
<input checked="" type="checkbox"/> Quit Claim Deed Dated: <u>10/13/2016</u> Recorded in Liber/Page: <u>Document No. 2016R005196</u>			
<input type="checkbox"/> Mortgage Dated: __ Amount: __ Recorded in Liber/Page: __			
<input type="checkbox"/> Other Lien Dated: __ Amount: __ Recorded in Liber/Page: __			
I know of the following other interests in this property which were in effect immediately prior to foreclosure:			
<div style="border: 1px solid black; padding: 5px;">None</div>			
PART 4: CERTIFICATION AND NOTARY			
<i>I hereby swear that the above information is true and correct in relation to the subject property</i>			
Claimant's Signature s/ Chelsea Koetter		Date 8/10/2021	
<i>Subscribed and sworn to before me by Applicant on the following date:</i>			
Notary's Signature s/ H. Renee Tondu		Commission Expiration Oct. 19, 2021 [Notary Stamp]	
Notary State of Authorization MI	Notary County of Authorization Manistee	Notary Acting in County Benzie	
FORECLOSING GOVERNMENTAL UNIT RECEIPT ACKNOWLEDGMENT			
FGU Staff Signature of Receipt		FGU Staff Printed Name	Date of Receipt

Appendix 52a

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF MANISTEE

IN THE MATTER OF THE
PETITION OF MANISTEE
COUNTY TREASURER FOR
THE FORECLOSURE OF
CERTAIN PARCELS OF
PROPERTY DUE TO
UNPAID 2018 AND PRIOR
YEARS' TAXES, INTEREST,
PENALTIES, AND FEES,

Case No. 20-
17073-CZ

HON. DAVID A.
THOMPSON

VISSER AND ASSOCIATES, PLLC
Donald R. Visser (P27961)
Donovan J. Visser (P70847)
Bria Adderley-Williams (P84876)
Attorneys for Claimant
2480 – 44th Street, S.E., Suite 150
Kentwood, MI 49512
(616) 531-9860

**VERIFIED MOTION TO DISBURSE
REMAINING PROCEEDS FROM
TAX FORECLOSURE SALE**

COMES NOW, Claimant Chelsea Koetter (“Claimant”), by and through Counsel, VISSER AND ASSOCIATES, PLLC, and requests that this Court compel the Manistee County Treasurer to disburse the Remaining Proceeds from the tax foreclosure and

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sale of Claimant's former property pursuant to MCL § 211.78t. In support thereof, Claimant states as follows:

1. Claimant was the owner of certain real property identified by permanent parcel number 02-581-711-01 located in the County of Manistee ("Subject Property"). Claimant's recorded deed is attached as **Exhibit 1**.

2. On February 12, 2021, pursuant to the General Property Tax Act ("GPTA"), this Court entered a Judgment of Foreclosure which included the Subject Property. This Court's Judgment of Foreclosure is attached as **Exhibit 2**.

3. Claimant did not transfer or otherwise divest its interest in the Subject Property prior to the effective date of the Judgment of Foreclosure.

4. Further, the Subject Property was not encumbered by a lien or other security interest at the time the Judgment of Foreclosure became effective.

5. Subsequent to the entry of the Judgment of Foreclosure, the Manistee County Treasurer sold the Subject Property for \$106,500.

6. The amount of unpaid delinquent taxes, interest, penalties, and fees incurred and owing to the Manistee County Treasurer for the Subject Property was \$3,863.40.

7. As a consequence of the sale of the Subject Property, the County Treasurer received \$102,636.60.

8. Neither Claimant nor any entity in which Claimant held a direct or indirect interest purchased the Subject Property through the tax sale process outlined under MCL § 211.78m.

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9. At the time this motion was filed, Claimant did not hold any direct or indirect interest in the Subject Property apart from its vested property interest in the “Remaining Proceeds” as defined in MCL § 211.78t.

10. In accordance with MCL § [2]11.78t(9), the County has deducted a 5% commission fee from the sale proceeds in the amount of \$5,325.

11. Claimant’s Remaining Proceeds are not subject to any further deductions outlined by MCL § 211.78t(8), and Claimant is entitled to claim the Remaining Proceeds of \$97,311.60 pursuant to MCL § 211.78t(4).

WHEREFORE, Claimant requests that this Court enter an Order directing the Manistee County Treasurer to turn over Remaining Proceeds of \$97,311.60 to Claimant Chelsea Koetter within 21 days of this Court’s order as required by MCL § 211.78t(10).

Respectfully submitted,
VISSER AND
ASSOCIATES, PLLC

Dated: May 9, 2022

s/
Donald R. Visser (P27961)
Donovan J. Visser (P70847)
Bria Adderley-Williams
(P84876)
Counsel for Claimant

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF MANISTEE

IN THE MATTER OF THE
PETITION OF MANISTEE
COUNTY TREASURER FOR
THE FORECLOSURE OF
CERTAIN PARCELS OF
PROPERTY DUE TO
UNPAID 2018 AND PRIOR
YEARS' TAXES, INTEREST,
PENALTIES, AND FEES.

Case No. 20-
17073-CZ

HON. DAVID A.
THOMPSON

Lucas Middleton
(P79493)
*Attorney for County
Treasurer*
222 N. Kalamazoo
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(269) 585-1271

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Donald R. Visser
(P27961)
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(P84876)
Attorneys for Claimants
2480 – 44th St. SE,
Suite 150
Kentwood, MI 49512
(616) 531-9860

AFFIDAVIT OF CHELSEA KOETTER

I, CHELSEA KOETTER, being first duly sworn,
deposes and says:

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1. I am over the age of 18 and have personal knowledge of the matters attested to herein.

2. I was the former owner of property commonly known as 8073 Lake Street, Bear Lake, Michigan, 49614.

3. Apparently, my interest in said property was foreclosed for failing to pay the 2018 taxes, despite the 2019 and 2020 taxes having been paid.

4. Prior to the foreclosure, I attempted to figure out what was going on, but the Treasurer's office was closed due to COVID.

5. In June of 2021, I went to the Treasurer's office with my grandmother to attempt to correct things. I was told it was too late and there was nothing I could do because the property had already been foreclosed. No one mentioned that a form could be filled out for claiming proceeds for the sale and no one gave me a form.

6. Only because of the intervention of a family friend did I hear of the need to file a form. My friend informed me of this form and I filled it out on July 9, 2021 (see attached **Exhibit 1**). The form was accepted by the Treasurer. I was told that the deadline for filing the form had been extended to July 15, 2021. However, on July 22, 2021, I received a letter in the form of **Exhibit 2** saying the form was being rejected. *Further, affiant sayeth not.*

DATED: July 26, 2022

s/ Chelsea Koetter
Chelsea Koetter

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STATE OF MICHIGAN)
)ss
COUNTY OF BENZIE)

Subscribed to before me, a Notary Public, on this
26th day of July 2022, by Chelsea Koetter.

s/ H. Renee Tondur

[Notary Stamp]

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF MANISTEE

IN THE MATTER OF THE
PETITION OF MANISTEE
COUNTY TREASURER FOR
THE FORECLOSURE OF
CERTAIN PARCELS OF
PROPERTY DUE TO
UNPAID 2018 AND PRIOR
YEARS' TAXES, INTEREST,
PENALTIES, AND FEES.

Case No. 20-
17073-CZ

HON. DAVID A.
THOMPSON

Lucas Middleton
(P79493)
*Attorney for County
Treasurer*
222 N. Kalamazoo
Mall, #100
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VISSER AND ASSOCIATES,
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Donald R. Visser
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2480 – 44th St. SE,
Suite 150
Kentwood, MI 49512
(616) 531-9860

AFFIDAVIT OF ROBERT MICK

I, ROBERT MICK, being first duly sworn, deposes
and says:

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1. I am over the age of 18 and have personal knowledge of the matters attested to herein.

2. I am the father of Chelsea Koetter.

3. I went to the Treasurer's office and paid off the taxes on the following dates:

a. 02/05/2019 (2018 Winter Taxes);

b. 02/14/2020 (2019 Winter Taxes);

c. 10/27/2020 (2020 Summer Taxes).

By intent or neglect, the Treasurer's office did not bring up the taxes still due for 2018 on any of those occasions. Had those taxes been brought to my attention, I would have paid those as well. I was ready, present and able to pay all the taxes—as can be illustrated by the fact I paid the 2019s and 2020s in full. On two of these occasions, I asked the personnel at the Treasurer's office to verify that all taxes were paid and they looked up the records and confirmed I was paying all the taxes that were due.

4. On October 13, 2016, I delivered the Affidavit attached as **Exhibit A** to the County's Department of Equalization informing them that both my daughter and I had an interest in the real property.

5. Also on October 13, 2016, I delivered the Affidavit attached as **Exhibit B** to the County's Department of Equalization disclosing my ownership interest as well as my daughter's ownership interest in the real property.

6. On October 13, 2016 the Deed attached as **Exhibit C** was recorded by the County Register of Deeds.

7. I was not provided notice of the foreclosure.

Further, affiant sayeth not.

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DATED: July 26, 2022

s/ Robert Mick

Robert Mick

STATE OF MICHIGAN)

)ss

COUNTY OF BENZIE)

Subscribed to before me, a Notary Public, on this
28th day of July 2022, by Robert Mick.

s/ H. Renee Tondu

[Notary Stamp]