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February 12, 2024

John Kozlowski, Chair *Via Email*  
Alpena County Board of Commissioners johnkozlowski@alpenacounty.org  
720 West Chisholm Street  
Alpena, MI 49707

**Re: Request to Assign Real Estate Covenant for County Fair**

Dear Mr. Kozlowski:

I am writing as legal counsel for the Alpena County Agricultural Society (ACAS), which has historically organized the county fair held in August each year. As you likely know, the Society formerly owned the fairgrounds property on 11<sup>th</sup> Avenue but sold it to the County in the early 1900s. In the 1901 deed, which is attached for ease of reference, ACAS reserved an interest in the land consisting of the “right to the exclusive use and possession of said premises and all buildings thereon not owned by private persons for one week in each year to be selected by [ACAS] for the purpose of holiday fairs.”

In 2022, ACAS’s board of directors determined that it would be in the best interest of the fair to be operated by a 501(c)(3) charitable organization rather than 501(c)(5) agricultural or horticultural organization. The primary reason for this is that donations to 501(c)(3) entities are tax-exempt for the donor, while exemptions to 501(c)(5) entities are not. As a result, 501(c)(3) entities are typically thought to have greater fundraising capacity. Moreover, it appears that many (if not most) county fair boards in the state are now organized as 501(c)(3) entities.

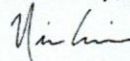
To facilitate the transition to 501(c)(3) status, ACAS’s board of directors has formed a new nonprofit corporation known as the Alpena County Fair Society (ACFS) and started doing business under that name. In fact, the most recent

memorandum of understanding (MOU) with the County was approved and signed by ACAS, rather than ACFS.

In order to complete the transition to the new organization, ACAS is respectfully requesting that the County approve a modification to the 1904 deed that formally transfers the property interest. A draft of that document is attached for your review. If the document is in an acceptable form, we would ask that you please present it to the full Board of Commissioners for its review and approval at your earliest convenience.

I hope this letter sufficiently explains the nature of and reason for this request. If you have any questions, or if you'd like to discuss further, please do not hesitate to contact me at the email address or phone number listed on the first page of this letter.

Sincerely,



Nick Curcio

Attachments



(Alpena County Agricultural Society) } Received for record this  
 - to - } 10th day of July A. D. 1901,  
 The County of Alpena } at 4 P. M.  
 C. G. Monk  
 Dep. Register

- Warranty Deed -

This indenture, made this 26th day of June in the year of our Lord one thousand nine hundred and one,

Between the Alpena County Agricultural Society of the County of Alpena, and State of Michigan, party of the first part, and The County of Alpena, party of the second part.

Witnesseth, That the said party of the first part for and in consideration of the sum of two thousand five hundred eighty one and 32/100 dollars, to wit, in hand paid, by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, and by these presents, grant, bargain, sell, remise, release, alien and confirm unto the said party of the second part and its assigns forever, all that certain piece or parcel of land - situate and being in the City of Alpena, County of Alpena and State of Michigan, and described as follows, to wit: Commencing at a point in Thunder Bay River where the section line crosses between sections 21 and 22, in town 31, north range 8 East, and running south on said line 53 rods; thence at right angle west to the bank of the river at high-water mark; thence down the river at high-water mark to the place of beginning, being part of Lot 2, in section 21, town 31 north, range 8 East, lying on the right bank of Thunder Bay River.

Said first party reserves to itself the right to the exclusive use and possession of said premises and all buildings thereon not owned by private persons for one week in each year to be selected by itself for the purpose of holding fairs.

This deed is made in pursuance of a special act of the Legislature Session of 1901, empowering and authorizing the Board of Supervisors of Alpena County to purchase certain lands of the Alpena County Agricultural Society and others, for an agricultural County park, and authorizing Alpena County Agricultural Society to sell and convey certain lands for the purpose of paying its debts and to purchase other lands and the improvement thereon, and also in pursuance of a resolution of said Alpena County Agricultural Society authorizing the sale of said above described premises, dated May 24th 1901. And also in pursuance of a resolution of the Board of Supervisors dated June 24th 1901, authorizing the purchase of said above described premises.

Together with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining to have and to hold the said premises as herein described, with appurtenances unto the said party of the second part and to its assigns forever.

And the said party of the first part does covenant, grant, bargain



and agree, to and with the said party of the second part, that at the time of the executing and delivery of these presents, it is well seized of the above granted premises in fee simple; that they are free from all incumbrance what ever, and that it shall warrant and defend the same against all lawful claims what ever, except a certain lease given by the Alpena County Agricultural Society to the Alpena Draining Club bearing date the 18<sup>th</sup> day of June 1894, and recorded in the 23<sup>rd</sup> day of June 1894, in Book 1, of Miscellaneous Records on page 471 and 472, and this deed is given subject to said lease.

In witness whereof, The said party of the first part by and through its officers, the President and Secretary, has hereunto set its hand and seal the day and year first above written.

In presence of whom, }  
 Signed and sealed in presence of } James L. Sanborn } L. S.  
 Chas W. McLean } President Alpena Co. Agr'l Society } L. S.  
 J. L. Currier } }  
 } } Secretary Alpena County Agr'l Society.

State of Michigan }  
 County of Alpena } ss

On this 8<sup>th</sup> day of July, in the year one thousand nine hundred and one, before me, a Notary Public in and for said County, personally appeared James L. Sanborn and Gay B. Toland, President & Secretary, Alpena Co. Agricultural Society to me known to be the same persons described in and who executed the within instrument, who have acknowledged the same to be their free act and deed.

J. L. Currier  
 Notary Public, Alpena Co. Michigan