



MICHIGAN HISTORIC PRESERVATION NETWORK

MEMORANDUM

To: MHPN Board of Directors
From: Steve Fox, Brenda Rigdon, and Janet Kreger
Re: Proposed Demolition of the Roosevelt School in Keego Harbor
Date: February 9, 2024

INTRODUCTION

The Michigan Historic Preservation Network (MHPN) has received many complaints from residents of Keego Harbor, Michigan, regarding the recent decision by the West Bloomfield School District (WBSD) to demolish a historic school building in the town of Keego Harbor. According to these complaints, WBSD representatives have chosen demolition over re-use because of a concern that re-use of the building would allow a competitive school to open within the same building, compromising the district's financial position and ability to serve its students. This memorandum discusses the Michigan Educational Instruction Access Act of 2017 and its negative effect on the productive reuse of historic resources for the benefit of the community. It argues that school districts and communities should pursue the beneficial reuse of community resources for the betterment of all residents. As this paper has been prepared, other needlessly threatened and demolished historic schools have come to light.

BACKGROUND

In recent years, many historic school buildings in Michigan have been demolished. For example, the Detroit Public Schools slated 20 schools for demolition as part of its master plan¹, which included the historic Foch Middle School.² Historic school buildings in Walled Lake³, Flat Rock⁴, Schwartz Creek,⁵ and Lansing⁶ districts have been demolished despite substantial public opposition and the desire of the citizens to re-use these historic resources as productive assets for local economies that enhance the fabric of local neighborhoods. In most cases, these buildings could have easily been repurposed to benefit the local community.

¹ <https://www.wxyz.com/news/region/detroit/city-of-detroit-slated-to-demolish-20-vacant-school-buildings>

² <https://www.bridgedetroit.com/detroit-school-board-approves-demolition-deal-for-old-foch-middle-school/>

³ <https://www.theoaklandpress.com/2018/02/06/walled-lakes-old-school-building-will-be-demolished-district-hosting-auction-to-empty/>

⁴ <https://www.thenewsherald.com/2023/06/26/historic-school-building-in-flat-rock-demolished-after-effort-to-save-it-fails/>

⁵ <https://davisonindex.mihomepaper.com/articles/bird-population-prompts-delay-in-mary-crapo-demolition/>

⁶ <https://www.lansingstatejournal.com/story/news/2022/10/26/lansing-school-district-historic-mt-hope-school-tours-demolition-rebuild/69590367007/>

For example, in 2022, the historic Reading School in Flat Rock, built in 1911, was slated for demolition. A local group publicly opposed demolition of the Reading asserting it should be repurposed. Businesswoman Jennifer Schoenberger, a 1991 Flat Rock Community High School graduate, led the group that fought to save the building. Although Schoenberger lived in Georgia, news reports indicated she maintained strong local ties. Demolition plans were paused in January of 2023 following the group's efforts, and the district considered the options presented and sought reimbursement of costs and expenses incurred in its demolition and related plans.⁷ The Reading School was demolished in the summer of 2023.

In 2017, the Walled Lake School District planned to demolish a historic school constructed in 1922.⁸ Significant public opposition grew, and the City of Walled Lake, sympathetic to the citizens' demands, brought a lawsuit seeking to stop the demolition, city officials alleging the plan to be "both fiscally wasteful and illegal."⁹ The City asserted multiple theories, but each was defeated in court. First, the City claimed that a future property sale would be inconsistent with zoning. The court held that this claim was speculative because no use had been identified. Second, the City claimed it had a right to challenge the board's decision to tear down the building. The trial court held there was no legal support for the City's claim for review under the Administrative Procedures Act or the revised School Code. The court specifically noted the authority of the district to dispose of and convey school property pursuant to MCLA 380.11(a)(3). Third, the City asserted that the District decision was contrary to the requirements of funding laws. The court found that the City did not have standing to assert a funding claim because it did not suffer an injury different from the citizenry at large. Fourth, the City asserted that the District failed to obtain the required permits to demolish the building. The district claimed that it was not bound by local zoning ordinances. The court held that the District was immune from the local ordinances pursuant to MCLA 380.1263(3). The school was subsequently demolished. MHPN is aware of at least two situations in metro Detroit centering on demolition, one in Rochester for the demolition of a stunning complex of three historic schools built in 1889, 1916, and 1928, and the other involving the demolition of the Roosevelt School that has been a noteworthy landmark for Keego Harbor since 1920.

At the same time, communities all around Michigan have recognized the value of their historic schools. On the west side, Eastern Elementary School in Grand Rapids, dating from 1929, and Grand Rapids Christian High School, built in 1931, have been converted to housing serving their tightly knit neighborhoods. In Flint, along the I-75 Corridor, the 1928 Calvin Coolidge School and 1898 Oak Street School have found new life as housing. Also, along the Corridor, the Elmer R. Webster School in Pontiac commanded the needed investment to become a community center. In Detroit, the City is completing a ground-breaking study of 63 historic school buildings, stressing that "Every vacant school in this study has redevelopment potential," and redevelopment is the only responsible way to keep their neighborhoods intact. In Central Michigan, East Lansing converted its 1926 John Hannah High School to a community center over twenty years ago. In Northwest Michigan, the 1927 Clinton Street School in Charlevoix was converted into the downtown Library, community center, and technology hub. Projects in the Upper Peninsula have been similarly successful, with Hancock Central High School just being listed on the National Register of Historic Places to incentivize its redevelopment through the use of tax credits and with

⁸ and https://www.mlive.com/news/ann-arbor/2017/08/walled_lake_city_school_distri.html; and <https://www.dailytribune.com/2017/06/21/walled-lake-to-file-lawsuit-against-school-district-to-prevent-demolition-of-95-year-old-school-building/>

⁹ <https://www.detroitnews.com/story/news/local/oakland-county/2017/09/04/walled-lake-historic-school-building/105263426/>

the adaptive reuse of the Hessel School as a community center and museum for its 2,000 residents.

THE PROPOSED DEMOLITION OF THE ROOSEVELT SCHOOL IN KEEGO HARBOR

The situation in Keego Harbor is symptomatic of the problem and warrants discussion. Keego Harbor was platted in the early 1900s for cottages and summer homes for people who worked in Detroit and Pontiac and is now one of the most densely populated cities in Oakland County. The community's waterfront housing around multiple lakes and cuts, neighborhoods of traditionally-platted housing, and linear retail flanking the intersection of Cass Lake and Orchard Lake Roads provide a very walkable development pattern that is popular again. The Roosevelt School, established in 1920, stands immediately north of the intersection and is a significant visual anchor for the community. Indeed, when it first became known that the Roosevelt School might be available for repurposing, a preservation advocate active in Oakland County immediately expressed interest. This developer recognized the soundness of the building and its adaptability. The developer's background includes other projects that won a 2017 Michigan Historic Preservation Network Award for Tax Credit Project of the Year and a 2018 Governor's Award for Historic Preservation. It is not just the citizens of Keego Harbor who recognize the sound condition and promising value of the Roosevelt School, but also those involved in the historic preservation industry across the State and region.

Community leaders and developers have urged the WBSD to sell the school or take other action that will permit the re-use of the historic building instead of losing it, and the district has received multiple offers to purchase the property. School districts across the State of Michigan have transferred school property to permit such re-uses pursuant to their broad authority under the Revised School Code.¹⁰ Despite the obvious benefit of re-using the Roosevelt School in Keego Harbor, the WBSD has chosen demolition.

WBSD states that it intends to demolish the Roosevelt School because, upon a sale or transfer, the district cannot prevent another school from using the same building to open a competing school. WBSD's concern is based on the Michigan Educational Instruction Access Act of 2017 (the Act), which limits the general authority granted to a school district. The Act applies to any school district, public school academy, community college, city, village, township, county, authority, and other governmental bodies.¹¹

Simply stated, the Act provides that a school district may not (i) impose or enforce an ordinance or (ii) impose or enforce a deed restriction that would prevent a school building sold by it from being used in the future for an educational purpose by an educational institution or a private school.¹² The Act also invalidates an existing deed restriction that purports to prohibit a former

¹⁰ MCLA 380.11a

¹¹ MCLA 123.0143

¹² 123.1045 Sale, lease, or transfer of property by local governmental body for use by educational institution or private school; imposition, enforcement, or application of deed restriction or affirmative use deed restriction.

Sec. 5. (1) Except as otherwise provided in this subsection, a local governmental body shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. This subsection does not apply to either of the following: (a) A zoning ordinance adopted by the local governmental body under the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 to 125.3702.

school building from being used for an educational purpose by an educational institution or a private school. Nor may a district refuse to sell a school building to an educational institution or private school solely because the property will be used for an educational purpose.¹³

It is important to point out that the restrictions of the Act do not prevent the productive re-use of historic schools. The Act did not intend to, nor does it handcuff a district from making decisions that facilitate the re-use of property for the benefit of the community. The Act does not prevent the school from being re-used as residences, apartments, or another use that benefits Keego Harbor. The Act does not dictate to whom or what entity the school building may be sold. The Act does not prevent a successor in interest from partnering with the City or a nonprofit. Nor does it prohibit the City of Keego Harbor from granting a special use permit, planned unit development status, or approving a site plan. Moreover, when or if the school building is re-used, the land will most likely add to the tax base for the community instead of remaining exempt from property tax as a school building. If used as residences or apartments, it will surely add to the number of students in the district.

The Keego Harbor situation demonstrates that a school district concerned about competition is likely to focus on a narrow issue and seek to protect its narrow interests over the broader benefit of reusing a historic structure that will have a positive and lasting impact on an entire community. The legislature could eliminate this problem by allowing school districts to establish deed restrictions, enter into agreements with a successor in interest to protect its interests, and partner with municipalities to fashion a redevelopment plan that will benefit the community as a whole.

The Act applies to an "educational institution" and "local government body" as defined by the Act. MHPN is neither, but it offers several means by which it can offer assistance for reusing a significant historic building such as the Roosevelt School. For example, it manages a revolving loan fund that offers low-interest Pre-Development Loans and Intervention Loans. With its "MHPN Tax Credit Investment Program" established in 2009, the MHPN partners with owners, enabling

(b) The administrative review of a site plan as provided in section 1263(4) of the revised school code, 1976 PA 451, MCL 380.1263.

(2) A local governmental body shall not impose, enforce, or apply any deed restriction that expressly, or by its operation, prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. Any deed restriction or affirmative use deed restriction that affirmatively allows for only 1 or more specified uses or purposes that do not include an educational use or purpose is prohibited under this subsection. Any deed restriction or affirmative use deed restriction in effect on the effective date of the amendatory act that amended this section that prohibits or does not permit property previously used for an educational purpose from being used for any future educational purpose is void.

(3) If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body shall not refuse to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose, if the intent of the educational institution or private school is to use the property for a lawful educational purpose. If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body is not required to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose. This subsection does not require a local governmental body to do either of the following:

(a) Provide special notice of property offers to an educational institution or a private school.

(b) Provide a right of first refusal to an educational institution or a private school.

¹³ MCLA 125.1045(3).

them to fill funding gaps on projects that would not have been financially feasible “but for” the MHPN’s involvement.

But most importantly to the discussion at hand, it is with the MHPN’s easement program that a property owner can establish the MHPN to protect a property in perpetuity. Through an easement, the MHPN partners with the owner and the community to ensure that a historic building continues to be used as planned. Indeed, the MHPN has done so with over two dozen historic preservation easements since 2006, protecting them with funds held in its legal defense investment fund. Here is how. The Michigan Natural Resources Protection Act expressly authorizes qualified nonprofit organizations to acquire historic preservation easements (HPE) on real property. NREPA uses broad language to describe the property interest acquired through an HPE. The interest in real estate represented by an HPE is broader and deeper than a mere deed restriction. An HPE is “an interest in land that provides a limitation on the use of a structure or site . . . that requires or prohibits certain acts on or with respect to the structure or site, whether or not the restriction is stated as a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the structure or site or in an order of taking, if the interest is appropriate to the preservation or restoration of the structure or site.” The HPE may be enforced against the property owner who granted an HPE or its successor.¹⁴ In other words, where an easement is established, MHPN may be able to facilitate suitable redevelopment of the historic structure while minimizing the possibility that a district will be faced with competition from within a building it agreed to sell.

Clearly, many communities and districts in every part of Michigan have refused to demolish historic school buildings in favor of re-using historic structures to benefit the entire community. This Memorandum endorses that other Michigan communities, organizations, and stakeholders take action to facilitate the productive reuse of Michigan’s historic school buildings.

¹⁴ MCLA 324.2142#

