

FILED
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Clerk of Court
Shawano Co., WI
2019CV000010

STATE OF WISCONSIN CIRCUIT COURT SHAWANO COUNTY

**VILLAGE OF MATTOON and
TOWN OF HUTCHINS**

Plaintiffs,

**SHEPHERD'S WATCH COMMUNITY
CENTER, INC.**

Case No. 19-CV-10
Case Code No: 30701

Intervenor-Plaintiff

vs.

**UNIFIED SCHOOL DISTRICT
OF ANTIGO**

Defendant.

**ANSWER, AFFIRMATIVE DEFENSES,
AND COUNTERCLAIMS OF DEFENDANT**

Now comes the defendant, Unified School District of Antigo, by its attorney, Michael B. Winter of Winter, Winter & Behrens, and as and for an answer in the above matter alleges as follows:

1. Defendant admits to the allegations in paragraphs 5, 7, 11, 13, 19, 23, 29, and 33.
2. Defendant denies the allegations in paragraphs 1, 15, 16, 17, 21, 22, 25, 26, 28, 30, 34, 35, 36, 37, 38, 40, 42, 43, 44, 46, and 47.
3. As and for an answer to paragraphs 10, 14, 18 and 20, defendant lacks information to admit or deny and therefore denies and puts Intervenor-Plaintiff to its proof thereon.
4. As and for an answer to paragraphs 2 and 4, defendant alleges answers as previously set forth to those paragraphs in the Answer to the Municipalities' Complaint.
5. As and for an answer to paragraph 27, defendant alleges answers as set forth for each paragraph as stated herein.
6. As and for an answer to paragraph 3, defendant admits only that it is a Wisconsin non-stock, not for profit corporation and with respect to the balance

of the paragraph, lacks information to admit or deny and therefore denies the same.

7. As and for an answer to paragraph 6, defendant denies that Shepherd's Watch's intention was to open a community center as previously represented to the defendant. Shepherd's Watch has indicated in Court that its intention was always to open a school at the location. Defendant admits the balance of the paragraph.
8. As and for an answer to paragraphs 8, defendant denies and affirmatively alleges that the Antigo School District would incur significant recurring costs for equitable services under Federal title programs and IDEA as well as transportation obligations if a school were opened at this site.
9. As and for an answer to paragraph 9, defendant admits only that the Municipalities support Shepherd's Watch's plan to open a school at the property and otherwise denies the allegations.
10. As and for an answer to paragraph 12, defendant admits only that the Court has allowed Shepherd's Watch to Intervene and otherwise, denies the allegations.
11. As and for an answer to paragraph 24, defendant admits that the Joint School District was dissolved on the date indicated and affirmatively alleges that the assets of the dissolved district transferred to the Antigo School District.
12. As and for an answer to paragraph 31, defendant admits the law has changed substantially since 1863 and 1889 and denies the remaining allegations.
13. As and for an answer to paragraph 32, defendant admits only that this is part of what the statute states and denies the balance of the paragraph.
14. As and for an answer to paragraph 39, defendant admits only that this is how part of the statute reads and denies the balance of the paragraph.
15. As and for an answer to paragraph 41, defendant admits that this was part of the language in place at the time and denies the balance of the paragraph.
16. As and for an answer to paragraph 45, defendant denies and affirmatively alleges that any such contract is void under the public purpose doctrine as well as the United States Constitution and Wisconsin Constitution, Article I §18.

AFFIRMATIVE DEFENSES

As and for affirmative defenses, the defendant alleges:

1. The Intervenor-Plaintiff's Complaint fails to state a claim for relief.
2. Laches.
3. Statute of Frauds.
4. The purchase contract between the Municipalities and the Intervenor-Plaintiff is void under the public purpose doctrine, the United States Constitution, and the Wisconsin Constitution, Article I §18.

COUNTERCLAIMS

Declaratory Judgment

1. Defendant School District of Antigo is a Wisconsin school district organized under the laws of the State of Wisconsin as an agency of the State and is located within Langlade County, Wisconsin. The School District of Antigo's main district office is located at 120 South Dorr Street, Antigo, Wisconsin 54409.
2. Plaintiff, Village of Mattoon, is a Wisconsin village organized under the laws of the State of Wisconsin and located within Shawano County, Wisconsin. The Village of Mattoon Village Hall is located at 310 Slate Avenue, Mattoon, Wisconsin 54450.
3. Plaintiff Town of Hutchins is a Wisconsin town organized under the laws of the State of Wisconsin. The Town of Hutchins Town Hall is located at W15698 Red River Road, Birnamwood, Wisconsin 54414.
4. Intervenor-Plaintiff, Shepherd's Watch Community Center, Inc., upon information and belief is a non-stock, non-profit corporation with a principal office located at P.O. Box 80, Mattoon, Wisconsin 54450.
5. This matter pertains to a dispute as to ownership of the former Mattoon Elementary School located at 507 Stone Avenue, Mattoon, Wisconsin 54450 and legally described as follows (the "Property"):

Parcel One:

Lot One (1) in Block Twenty-five (25) of the Plat of Mattoon, being a subdivision of the East Half (E ½) of the Southeast Quarter (SE ¼) of Section Nine (9) and the West Half (W ½) of the Southwest Quarter (SW

¼) of Section Ten (10), Township Twenty-nine (29) North, of Range Twelve (12) East.

(Village of Mattoon, Shawano County, Wisconsin)

Tax Key 151 70050 0740 (subject premise and other land)

Parcel Two:

Lots Two (2) and Three (3) in Block Twenty-five (25) of the Village of Mattoon.

(Village of Mattoon, Shawano County, Wisconsin)

Tax Key 151 70050 0740 (subject premise and other land)

Parcel Three:

Lots number Four (4) and Five (5) in Block Twenty-five (25) of the Plat of the Village of Mattoon, Shawano County, Wisconsin.

(Village of Mattoon, Shawano County, Wisconsin)

Tax Key 151 70050 0750 (subject premise and other land)

6. The Property sits within the physical boundaries of the Village of Mattoon.
7. The Property consists of three parcels identified in paragraph 4 above. The records of Shawano County Register of Deeds maintain the following three records of conveyance as the present records of conveyance for the Property (the "Deeds"): (a) as to Parcel One, Indenture made by Mattoon Manufacturing Company of Sheboygan Wisconsin a corporation, grantor, to School district number six (6) Town of Hutchins, Shawano County Wisconsin, grantee, dated December 5, 1894, recorded January 8, 1895, as Document No. 36050 with the Shawano County Register of Deeds; (b) as to Parcel Two, vesting deed made by the County Clerk of Shawano County (tax deed made pursuant to public auction) on November 17, 1939, to Jt. School District No. 6 of the Village of Mattoon, recorded November 17, 1939 as Document Number 193103 with the Shawano County Register of Deeds; and (c) as to Parcel Three, Indenture made by Madeline Ramsey, grantor, to Joint School Dist #6 Village of Mattoon, Town of Hutchins, Shawano County, Wisconsin, grantee, April 17, 1959, recorded April 27, 1959, as Document Number 262553 with Shawano County Register of Deeds. Pursuant to the Deeds, title to the Property is held in the name of "School District number six (6) Town of Hutchins, Shawano County" (as to Parcel One), "Jt. School District No. 6 of Village of Mattoon" (as to Parcel 2), and "Joint School Dist #6 Village of Mattoon, Town of Hutchins, Shawano County, Wisconsin (as to Parcel Three)

- (collectively, the “Mattoon School District”), and that the referenced school districts eventually became known as the Joint School District No. 6, Village of Mattoon and Town of Hutchins, Shawano County. True and correct copies of the deeds are attached to Plaintiff’s complaint and marked as Exhibit A.
8. The Mattoon School District was dissolved pursuant to Order Number 34-61 (the “Order”), dated May 24, 1962, signed by the Shawano County School Committee, the Langlade County School Committee, and the Marathon County School Committee, effective June 30, 1962. According to the Order, the territory comprising the Mattoon School District was attached to “School District Number Joint 1, City of Antigo, and Town of Antigo and Langlade County; Village of Aniwa and Town of Aniwa, Shawano County; Town of Plover, Marathon County, Wisconsin, for all school purposes” (which is now known as the “Antigo School District”). A true and correct copy of the Order is attached to Plaintiff’s complaint and marked as Exhibit B.
 9. An excerpt of historical data from the Wisconsin Department of Public Instruction (“DPI”) summarizing attachments to and detachments from the Joint School District No. 6, Village of Mattoon and Town of Hutchins, Shawano County indicates that, effective June 30, 1962, “Jt. SD No. 6, Village of Mattoon and Town of Hutchins, Shawano County” (a/k/a, the Mattoon School District) was dissolved. A true and correct copy of the historical data is attached to Plaintiff’s complaint and marked as Exhibit C.
 10. An excerpt of historical data from the DPI summarizing attachments to and detachments from the School District of Antigo, Langlade County indicates that, effective June 30, 1962, the territory of the Mattoon School District was attached to the “City of Antigo et al Unified SD, Langlade County.” A true and correct copy of this historical data is attached to Plaintiff’s complaint and marked as Exhibit D.
 11. The Joint School District No. 6 Village of Mattoon and Town of Hutchins, Shawano County (a/k/a Mattoon School District) was a distinct and separate municipality from the Village of Mattoon and from the Town of Hutchins as that term was defined in Section 66.03 Wis. Stats which was in effect at the time of the dissolution.
 12. Order No. 34-61 dated May 24, 1962 was signed by the Shawano County School Committee, the Langlade County School Committee, and the Mattoon County School Committee and was valid as of June 30, 1962. This was also effectively an agreement to transfer ownership of real estate since the municipality known as the Mattoon School District was dissolving and could no longer legally hold title to real estate.

13. Shortly after the dissolution of the Mattoon School District and attachment to the Unified School District of Antigo, the former high school building of the Mattoon School District was razed. Additionally, the Unified School District of Antigo undertook to remodel the grade school by adding two classrooms, an entryway, storage facility, and a gymnasium all at its expense. The Unified School District of Antigo has maintained the property and has been in uninterrupted possession and control of the school property for over 56 years without any contrary claim of ownership from anyone until now.
14. At the time of dissolution of the Mattoon School District and attachment to the Antigo School District, no state statute or any other law referenced any reversion of title of real estate to the municipality in which the territory sits. The claim of plaintiffs and intervenor-plaintiff in its complaint to that effect is without any basis in the law or in equity.
15. In 2016 the Unified School District of Antigo decided to close the Mattoon School and thereafter, the Village of Mattoon attempted to form a new school district through an extensive process with the Wisconsin Department of Public Instruction (a/k/a DPI). This attempt was ultimately denied by DPI, and during that process, no claim was ever made by the Village of Mattoon or the Town of Hutchins that they owned the school property. It was not until a title search was done in the summer of 2018 showing the vesting deeds as outlined in paragraph 6 of this counterclaim that any claim of ownership was made by plaintiffs. This title search was done as part of a proposed transaction for the Antigo School District to transfer the property to the Village of Mattoon with the restrictive covenant.
16. The Unified School District of Antigo is the owner of the Property.

Slander of Title

17. Defendant realleges paragraphs 1-16 of its counterclaim and incorporates them by reference.
18. On October 19, 2018, the Village of Mattoon and Town of Hutchins recorded an Affidavit of Interest in the Property with the Shawano County Register of Deeds as Document No. 735249. The Affidavit of Interest is attached hereto and marked as Exhibit E.
19. Said Affidavit clouds the defendant's title and ownership of the Property and has prevented the defendant from being able to sell the property all to the detriment of the defendant.
20. After attempts to transfer the property to the Village of Mattoon failed, the Unified School District of Antigo attempted to sell the property on bids, but the

Affidavit filed by the Village of Mattoon and the Town of Hutchins prevented the Antigo District from being able to convey clear title.

Common Law Dedication

21. Defendant realleges paragraphs 1-16 of its counterclaim and incorporates them by reference.
22. The Mattoon School District is a common law grantor.
23. The Mattoon School District intended to dedicate the Property to Defendant in 1962 when it agreed to Order Number 34-61. A true and correct copy of the Order is attached to Plaintiff's complaint and marked as Exhibit B.
24. Because the Mattoon School District is a defunct entity, its intent as a grantor must be determined by reference to documents and the actions of Plaintiffs.
25. The Orders referenced above show a clear intent to grant all assets of the Mattoon School District to Defendant.
26. Plaintiffs actions show that the Mattoon School District's intent was to grant the Property to Defendant. Plaintiffs either accepted or acquiesced to the Mattoon School District's grant of the Property to Defendant by sitting silent as Defendant remodeled the Property and added two classrooms, an entryway, a storage facility, and a gymnasium at its own expense.
27. Plaintiffs further accepted or acquiesced to the Mattoon School District's grant of the Property to Defendant by sitting silent as Defendant operated a school on the Property and paid to operate the Property for over 54 years.
28. Defendant accepted the Mattoon School District's grant of the Property by operating it as a school and paying to operate the Property as a school for over 54 years.

Equitable Relief Under Wis. Stat §706.04

29. Defendant realleges paragraphs 1-16 of its counterclaim and incorporate them by reference.
30. The Antigo School District took over occupation and, it believed, ownership of the Mattoon School after the Mattoon School District dissolved in 1962. Up until 2016, the Antigo School District has, in good faith belief in ownership, operated and maintained the school and has expended substantial sums of money to do so. Not once during those 54 years did the Village of Mattoon or

Town of Hutchins hint at any claim of ownership and instead allowed the Antigo School District to use, maintain, and occupy the same.

31. The Village of Mattoon and Town of Hutchins would be unjustly enriched by a declaration of ownership in their names.

Therefore, the defendant requests the following relief:

1. Dismissal of Plaintiffs' and Intervenor-Plaintiff's complaint with prejudice.
2. Alternatively, judgment that the Unified School District of Antigo is the owner of the Property pursuant to Wis. Stat §806.04 and that the Plaintiffs and Intervenor-Plaintiff have no right, title, or interest in the Property.
3. For a judgment on its claim for slander of title pursuant to Wis. Stat §706.13 in an amount to be determined and for punitive damages as referenced in that statute.
4. Alternatively, for a judgment that the Mattoon School District granted the Property to Defendant under the doctrine of Common Law Dedication and that the Plaintiffs and Intervenor-Plaintiff have no right, title, or interest in the Property.
5. Alternatively, for a judgment declaring the Antigo School District as owner of the subject property under equitable provisions of Wis. Stat §706.04.
6. For such other relief as may be just and equitable.

Dated this 27 day of September, 2019.

WINTER, WINTER & BEHRENS
Attorneys for Unified School District of
Antigo

BY 
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This document was drafted by:
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