STATE OF MICHIGAN

IN THE 44TH CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

In re CHRIS ROPETA, in his capacity as a member of the TYRONE TOWNSHIP PLANNING COMMISSION.

Case No. 25-400-AS
Hon. Susan Longsworth

_____/

OPINION AND ORDER ON COMPLAINT FOR SUPERINTENDING CONTROL

This matter is before the Court on the Complaint for Order of Superintending Control of Chris Ropeta, in his capacity as a member of the Tyrone Township Planning Commission. The Complaint seeks an order of superintending control reinstating Mr. Ropeta to the Planning Commission after the Tyrone Township Board of Trustees removed him from that position on April 15, 2025.

I. BACKGROUND[1]

According to the Complaint, Tyrone Township is a Michigan general law township in Livingston County, organized pursuant to the Revised Statutes of 1846. Plaintiff, Chris Ropeta, is a resident of Tyrone Township. He was elected as a Trustee on the Tyrone Township Board of Trustees (the "Board") during the November 2024 election. On December 3, 2024, he was appointed to serve on the Tyrone Township Planning Commission (the "Planning Commission") for a three-year term.

Plaintiff alleges that on or about March 31, 2025, the Board issued written charges indicating that he:

[1] The parties' briefs contain detailed recitations of the facts and proceedings before the Board. The Court does not recite them here.

- Conspired to conceive and actively participated in drafting a letter to the Planning Commission members informing them that the "Township Board" was charging them with nonfeasance and requested they appear before the Board for a public hearing to explain their position;
- Conducted township business in the name of the Township Board and thereby misrepresented the Board and its authority;
    - Language written in the letter directly stated that the "Township Board" made a collective decision to charge planning commissioners with nonfeasance, even though there was never a publicly held meeting of the township board, quorum present, or vote taken;
- Was present upon letter delivery, knowing the letter held false statements that would adversely impact fellow planning commissioners

The Board held a hearing on the charges on April 15, 2025. At the conclusion of the hearing, the Board voted by a margin of 4 to 3 to remove Mr. Ropeta from the Planning Commission based on a finding of malfeasance and misfeasance.

Plaintiff filed the instant action on May 2, 2025.[2] On June 2, 2025, the Court issued an Order to Show Cause Regarding Complaint for Superintending Control ordering the Tyrone Township Clerk to file the certified record with the Clerk of the Court; ordering Plaintiff to pay transcription fees; and ordering the parties to file briefs. The Court held a hearing on September 25, 2025.

II. LEGAL STANDARDS

By statute, a circuit court "has a general superintending control over all inferior courts and tribunals, subject to supreme court rule." MCL 600.615. "The circuit court has superintending or supervisory control power over an inferior tribunal when the former has authority to review the actions of the latter." *Barham v WCAB*, 184 Mich App 121, 129; 457 NW2d 349 (1990) (citation omitted).

[2] Plaintiff previously filed suit on February 24, 2025 (case number 2025-392-AS). The Court dismissed the case on March 18, 2025 following a hearing, on the ground that his request for superintending control was premature because the vote to remove him had not yet occurred.

Superintending control is an extraordinary remedy generally limited to determining whether a lower tribunal exceeded its jurisdiction, acted in a manner inconsistent with its jurisdiction, or failed to proceed according to law. *In re Credit Acceptance Corp*, 273 Mich App 594, 598; 733 NW2d 65 (2007); *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 259 Mich App 315, 347; 675 NW2d 271 (2003) (superintending control is an "extraordinary power" for a court to invoke). For superintending control to lie, the plaintiff must establish that the defendant has failed to perform a clear legal duty and that plaintiff is otherwise without an adequate legal remedy. *Id.*; MCR 3.302(B).

A legislative body like the Board acts as an administrative tribunal subject to the Court's superintending control authority when it exercises its power to discipline public officials for alleged misconduct. See, e.g., *Wilson v City of Highland Park*, 284 Mich 96, 97; 278 NW 778 (1938) (reviewing a city council's removal proceedings via a writ of certiorari); MCR 3.302(C) (providing that superintending control orders replace the ancient writ of certiorari with respect to matters involving administrative tribunals). The Michigan Constitution requires that when a circuit court reviews the decision of an administrative tribunal under its superintending control authority, it must determine whether the findings and order of the tribunal were authorized by law and were supported by competent, material, and substantial evidence on the whole record. *Puritan-Greenfield Imp Ass'n v Leo*, 7 Mich App 659, 665; 153 NW2d 162 (1967), citing Const 1963, art 6, § 28.

Superintending control, like certiorari proceedings before it, require only that the decision by the other tribunal is supported by substantial evidence on the record. *In re*

Payne, 444 Mich 679, 691; 514 NW2d 121 (1994). Substantial evidence means "evidence that a reasonable person would find acceptably sufficient to support a conclusion" and "may be substantially less than a preponderance of evidence" but "more than a scintilla." *In re Sangster*, 340 Mich App 60, 67; 985 NW2d 245 (2022).

III. ANALYSIS

Plaintiff's Arguments

A. The Township Board lacked authority to remove Mr. Ropeta from the Planning Commission for conduct performed in his capacity as Township Trustee.

The Michigan Planning Enabling Act ("MPEA") provides that the "legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance ***in office*** on written charges and after a public hearing." MCL 125.3815(9) (emphasis added). In applying materially identical language in a city charter, the Michigan Supreme Court has held that removal authority is strictly limited to misconduct occurring within the specific office from which removal is sought. *Speed v Common Council of City of Detroit*, 98 Mich 360, 364; 57 NW 406 (1894) (applying charter language allowing removal for "corrupt or willful malfeasance or misfeasance in office"). The court emphasized that "the misconduct for which any officer may be removed must be found in his acts and conduct ***in the office from which his removal is sought***, and must constitute a legal cause for his removal, and affect the proper administration of the office." *Id.* (emphasis added). This restrictive interpretation reflects the principle that removal authority must be "expressly granted" and cannot extend beyond the specific boundaries of the office in question. *Id.* at 368. Thus, when a municipal governing board seeks to remove an officer for misconduct relating to another

office than the one from which removal is sought, it is "clearly beyond [its] jurisdiction" and its decision is subject to vacation by a reviewing court. *Id.* at 364, 372.

Courts in other jurisdictions have reached similar results. For example, the Missouri Court of Appeals has articulated the rule that "if the same person holds two offices, misconduct with respect to one will authorize the removal from that office, but not from both, unless the offense charged is against the duty of both offices." *State v Patton*, 131 Mo App 628 (1908) (citing English cases). Other courts have expressed a similar view, with most of the cases arising in the context of successive offices rather than concurrent offices. See, e.g., *State v Santillanes*, 99 NM 89; 654 P2d 542, 544 (1982) (holding that the term "in office" means the office "in which the offenses charged occurred," and agreeing that "an officer cannot ... be removed from office for a violation of his duties while serving in another office") (internal quotations omitted)); *State ex rel. Turner v Earle*, 295 So 2d 609, 613 (Fla 1974) ("[T]he rule supported by the great weight of authority and specifically adopted by this Court . . . is that a public officer may not be removed from office for misconduct which he committed in another public office...."); *State v Scott*, 35 Wyo 108; 247 P 699, 712 (1926) ("It is evident also, we think, that the word 'office,' found in either phrase 'misconduct and malfeasance in office' and 'removal from office,' have the same meaning; and the removal is supposed and intended to be from the office wherein has occurred the misconduct and malfeasance."); *People ex rel Bancroft v Weygant*, 14 Hun 546 (NY 1878). Nevertheless, the cases emphasize that it is the separate nature of the offices that drives the jurisdictional limitation, not the temporal relationship between them. This makes good sense. Provisions that require misconduct "in office" reflect a policy that each office operates within its own legal

framework with distinct remedial mechanisms, ensuring that misconduct is addressed through the appropriate accountability system designed for the office in which it occurred.

Here, Mr. Ropeta's removal was based on actions he took in his capacity as a Township Board member, not in his capacity as a Planning Commissioner. No evidence showed that Mr. Ropeta failed to perform his Planning Commission duties or engaged in misconduct while acting as a Planning Commissioner. The relevant conduct — addressing attendance issues of Planning Commissioners — fell squarely within the Township Board's statutory responsibilities under MCL 125.3815(9), which empowers the Board to remove Planning Commissioners for nonfeasance. As the Michigan Supreme Court established in *Speed*, conduct taken pursuant to the duties of one office cannot serve as grounds for removal from a different office, making this jurisdictional defect dispositive. See *Speed*, 98 Mich at 364. If Mr. Ropeta's conduct as a Township Board member was improper, the law provides appropriate remedies such as recall, removal by the governor under MCL 168.369, or censure by the Township Board. Indeed, the Township Board had already censured Mr. Ropeta for the same conduct on which the removal was based, demonstrating that the Board improperly conflated Mr. Ropeta's separate official roles in direct violation of the "in office" requirement. This alone constitutes grounds for vacating the Board's removal decision, independently of the substantive and procedural defects discussed below.

B. The Board's finding of misfeasance or malfeasance was not supported by competent, material, and substantial evidence on the record.

Malfeasance and misfeasance are categories of misconduct in office, which requires "intentional or purposeful misbehavior or wrongful conduct pertaining to the

requirements and duties of office." *People v Coutu (On Remand),* 235 Mich App 695, 706; 599 NW2d 556 (1999). Malfeasance is "the doing of a wrongful act" while misfeasance is "the doing of a lawful act in a wrongful manner." *Id.* at 705-706. Proof of intent or purpose is key, as "the laws providing for the removal of unfaithful public officers are not designed...as a pitfall into which an honest and sincere public official might be plunged if he unintentionally erred in the discharge of his duties; the law presumes that a public official conducts himself in good faith [and] the burden resting upon a complainant to show the contrary to be true." McQuillin, The Law of Municipal Corporations (3d ed, 2019), § 12:336, p 730, citing *Morris v Neider*, 259 AD 49; 18 NYS2d 207; 259 AD 49 (4th Dep't 1940), *Millburn Twp v Civ Serv Comm'n*, 125 NJL 521; 16 A2d 824 (1940), and *State v Foley*, 107 Kan 608; 193 P 361, 364 (1920).

In this case, the evidence presented at the removal hearing failed to establish the intentional or purposeful misconduct required for misfeasance or malfeasance. ***First***, the charge that Mr. Ropeta intentionally "misrepresented the Board and its authority" is contradicted by the evidence. As a factual matter, Mr. Ropeta's original template letter did not include the phrase "the Township Board is charging you," CR 72 (Ropeta Aff. ¶ 6), which is the specific language in the final version of the letter that Board members purport to find so objectionable. The undisputed drafting history of the letter shows that Township Supervisor Greg Carnes added that language when he revised Mr. Ropeta's template document. CR 73 (Ropeta Aff. ¶¶ 9-11); CR 85 (Text Messages); CR 87 (Carnes Letter). Further, text message exchanges show that Mr. Ropeta assumed that Mr. Carnes intended to discuss the letter with the Township Attorney before sending it, CR 26 (Text Messages), and Mr. Ropeta indicated in his hearing remarks that he consented to

the addition of the "Township Board" language because he trusted that Mr. Carnes understood his own authority as township supervisor, Tr. at 64-65. These facts show that Mr. Ropeta lacked the intent to deceive, which is required for his conduct to constitute misfeasance or malfeasance.

Second, mental state aside, Mr. Ropeta's understanding of Mr. Carnes' statutory authority is defensible as a matter of law. The MPEA provides that planning commissioners may be removed for nonfeasance "upon written charges and after a public hearing," MCL 125.3815(9), but does not specify who is authorized to bring such charges or the process for doing so. When this provision is read in conjunction with MCL 41.2, however, there is a strong argument that township supervisors have the power to initiate these proceedings as part of their role as the "agent for [the] township for the transaction of legal business." As Mr. Ropeta pointed out during the hearing, despite the significant political attention to the issue, "no one ha[d] presented [him] with any legal authority indicating that chronic absence from the Planning Commission meetings does not rise to the level of nonfeasance as the term is used in the Michigan Planning Enabling Act." Tr. at 65.

Third, Mr. Ropeta's belief that the letters contained legally sound charges further negates any inference of bad faith. Under Michigan law, "nonfeasance" is defined as "the neglect or refusal, without sufficient excuse, to do that which it was the officer's legal duty to do." *Gray v Clerk of Common Pleas Court*, 366 Mich 588, 594; 115 NW2d 411 (1962). During the removal proceedings, Mr. Ropeta submitted spreadsheets showing that five of the seven Planning Commissioners attended less than 80% of meetings during the approximately-one-year period that he reviewed, and that two commissioners

attended only 50% of the meetings. CR 80-81 (Attendance Charts). Further, Mr. Ropeta's text messages demonstrate his firm conviction that these attendance records leave "no question of non-[feasance]." CR 26 (Text Messages). This belief was bolstered by advice from former judge John Gadola — which was relayed to him through fellow Township Board member Herm Ferguson — as well as by his own research. CR 71 (Ropeta Aff. ¶¶ 3-4); see also CR 76-78 (Text Messages).

In attempting to defend their removal decision, Township Board members have claimed that there was no valid basis for the letters' nonfeasance charges because the Planning Commission bylaws do not contain an explicit attendance mandate. See, e.g., Tr. 7, 81 (discussing lack of attendance requirement in the Planning Commission Bylaws). This is unavailing, however, because the MPEA itself imposes statutory duties on Planning Commissioners — including master planning, recommending zoning ordinance amendments, and approving site plans — that can only be fulfilled through active participation in meetings. Chronic unexcused absence from meetings necessarily constitutes a failure to perform these statutory responsibilities, regardless of whether local bylaws establish a specific attendance percentage. See, e.g., *Irwin v Cunha*, 29 Haw 21, 26-27 (1926) (recognizing that unjustified absences from official meetings can constitute nonfeasance depending on the circumstances of the case in question); *Golaine v Cardinale*, 142 NJ Super 385, 397-398; 361 A2d 593 (Sup Ct 1976) (same). In light of this, conducting a removal hearing as Mr. Ropeta, Mr. Haase, and Mr. Carnes contemplated would have provided an appropriate forum for exploring whether the Commissioners' chronic absences were justified — precisely the type of inquiry that is required for assessing nonfeasance.

Fourth, Mr. Ropeta's consistent position that he did nothing wrong demonstrates the absence of intentional misconduct. At the removal hearing, he stated that "to this day I do not believe that I did anything inappropriate" and requested that the Board provide legal authority showing his understanding was incorrect. Tr. at 64-65. This unwavering position is further supported by the lack of evidence supporting Trustee Dollman-Jersey's claim that Mr. Ropeta participated in "coordinated efforts to tell the planning commissioners to destroy the letter." Tr. at 35. The record contains no evidence that Mr. Ropeta supported, participated in, or even knew about Mr. Carnes's decision to rescind the letters until after the fact. His steadfast maintenance of his position since the incident undermines any claim of intentional wrongdoing and supports his assertion of good faith reliance on his understanding of the law.

Given the presumption that public officials act in good faith and the lack of any evidence to the contrary, the Township failed to carry its burden of proving intentional misconduct. Without proof of wrongful intent, the charges against Mr. Ropeta amount to nothing more than a policy disagreement disguised as legal misconduct — precisely the type of abuse that the MPEA's for-cause removal standard is designed to prevent.

For these reasons, Mr. Ropeta respectfully requests that this Court enter an order of superintending control reversing the Township Board's removal decision.

The Board's Arguments

A. The Board properly removed Ropeta for his malfeasance and misfeasance in office.

The Board had the authority to charge and remove Ropeta from the Planning Commission under MCL 125.3815(9): "The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office on

written charges and after a public hearing." The charges against Ropeta were for malfeasance and misfeasance. (Appx. p. 6, Ex. D.) The Board charged Ropeta based on the false letter purporting to be from the Board and requesting Planning Commission members to appear at a public hearing, conducting business in the name of the Board and misrepresenting its authority without a public meeting or proper decision, and that he was present upon delivery of the false letter that adversely impacted Planning Commission members. (*Id.*) Ropeta responded to these charges at a public hearing and was removed from the Planning Commission by a vote of a majority of the Board.

The statute does not define malfeasance and misfeasance, so courts look to the "ordinary meaning as defined in a dictionary" for the words. *Hardenbergh v Dep't of Treasury*, 323 Mich App 515, 522; 917 NW2d 765 (2018). Malfeasance is a "wrongful or unlawful act" or "misconduct or wrongdoing." *North Country Agency, Inc v Frankenmuth Mut Ins Co*, 269 Mich App 685, 687; 713 NW2d 811 (2005). Misfeasance means doing "an act which might be lawfully done, in an improper manner." *Stark Hickey, Inc v Standard Acc Ins Co*, 291 Mich 350, 357; 289 NW 172 (1939), accord *Gray v Hakenjos*, 366 Mich 588, 593; 115 NW2d 411 (1962) ("misfeasance, as a cause for removal from office, is a default in not doing a lawful thing in a proper manner").

Here, Ropeta's drafting of the false letter and conspiring to serve it on Planning Commission "cronies" was a wrongful act. Ropeta drafted the letter alleging a charge against Planning Commission members with no basis. There is no attendance mandate in the bylaws for the Planning Commission, and Ropeta made up a threshold as a basis for the charge. (Appx. p. 168-169, Ex. GG.) Ropeta then misrepresented the Board's authority by demanding the recipient's attendance at a public hearing that had not been

scheduled or noticed under any proper channel and warned that a failure to appear would still result in a Board "decision regarding your appointment after the meeting is held." (Appx. p. 73, Ex. BB.)

Ropeta took it upon himself to create arbitrary criteria and then make a representation that the Board had made a decision in an unlawful manner. All decisions from the Board "must be made at a meeting open to the public." MCL 15.263(2). Ropeta's letter misrepresents the Board's authority and a decision made without any notice or public meeting. Ropeta's draft notes that "*we* are bringing you up on charges," that a public meeting would be held on the removal, and that the failure to attend will still result "*our* [the Board's] decision" on removal. (Appx. p. 73, Ex. BB.) Ropeta's conspiracy to draw up arbitrary charges on Planning Commission members with a false letter purporting to charge them by the Board was unlawful and malfeasance worthy of his removal from the Planning Commission.

In response to this record evidence, Ropeta argues that some of the objectionable language in the final letter was not added by him and that he believed that Carnes had authority to charge Planning Commission members by himself. (Ropeta Brief, pp. 15-16.) As to the language of the letter, while the phrase "the Township Board is charging you" was added by Carnes, Ropeta drafted the initial letter and was involved in and approved of the revisions. Ropeta's draft still noted "*we* are bringing you up on charges" and that the Board was involved in the public hearing and "*our* decision regarding your appointment." (Appx. p. 73, Ex. BB, emphasis added.) Ropeta may not have spelled it out directly like Carnes, but the "we" Ropeta is referring to is the Board. Moreover, Ropeta was insistent that any revisions do not lose the "bite" of his draft—and the

purpose of the letter was always to remove "cronies" that would vote contrary to Ropeta's desired agenda. And lastly, whatever the reason offered by Ropeta, he ultimately approved the letter that was given to Planning Commission members ("Looks good to me! Thanks"), and he bears responsibility for his part in setting this conspiracy in motion.

Ropeta also argues that he believed Carnes could bring charges by himself and that his understanding "is defensible as a matter of law." (Ropeta Brief, p. 16.) The statutory language directly contradicts this notion: "*The legislative body* may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office on written charges and after a public hearing." MCL 125.3815(9) (emphasis added). Ropeta attempts to inject ambiguity into an unambiguous statute and cites to no authority in support of that position. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998) (a party cannot announce a position without authority and leave it to the Court to "search for authority either to sustain or reject his position"). The "legislative body" in the statute means the Board. MCL 125.3803(e). Carnes did not have the sole authority to charge Planning Commission members, and the conspiracy to create the false letter started by Ropeta was unlawful and malfeasance.

As for the charge of misfeasance, there was substantial evidence on the whole record that Ropeta committed misfeasance. Misfeasance is doing "an act which might be lawfully done, in an improper manner." *Stark Hickey*, 291 Mich at 357. Ropeta has maintained the "consistent position that he did nothing wrong." (Ropeta Brief, p. 18.) His belief amounts to an admission of misfeasance—if he was doing a lawful thing, Ropeta went about it in an entirely improper manner. Ropeta did not go through the proper

channels to address his "concerns" over attendance; he did not raise the issue at a public hearing; and he did not get any Board approval before working to draft a false letter based on his own made up charges. If Ropeta was working in a proper manner, the group would not share documents noting that an agenda was "NOT for publication or discussion," and Ropeta would not approve the idea that Planning Commission members "will be surprised when they get [their] letter of charges." (Appx. p. 30 and 24, Exhibits P and O.) The secrecy and surprise of the conspiracy is emblematic of Ropeta not going through the proper, legal channels and conducting what he believed to be a just cause in an improper manner.

B. Ropeta was properly removed from his Planning Commission office because his actions had the goal of benefitting and improving his Planning Commission office.

Ropeta argues that he cannot be removed from his ex officio Planning Commission position because he was acting at all times in his capacity as a Township Trustee and not in his capacity as a Planning Commission member. (Ropeta Brief, pp. 12-13.) Ropeta principally relies on *Speed v Common Council of City of Detroit* for the idea that removal must come from "conduct in the office from which his removal is sought." 98 Mich 360, 364; 57 NW 406 (1894). But *Speed* is not at all applicable. Earlier in that same paragraph, the Court notes that the charges at issue "relate to the acts of Mr. Speed *committed before his appointment to, and induction into, this office*" and thus were "clearly beyond the jurisdiction of the respondents to determine." *Id.* (Emphasis added.)

Speed is factually distinguishable from this case. It is undisputed that the conduct at issue was undertaken after Ropeta was sworn in and appointed to the Planning Commission. Ropeta's plan was to replace the "Cunningham cronies" on the Planning

Commission that voted with the outgoing supervisor. (Appx. p. 26, Ex. O.) He acted on that by drafting a false letter that he hoped would be the basis of removal charges against those Planning Commission members that he did not like and would not vote with him going forward. *Speed* only stands for the premise that an officer cannot be removed for conduct *before he took office* and not for the idea that an official cannot be removed for the conduct done in a different office, as Ropeta argues. (Ropeta Brief, p. 14.)

Ropeta's actions were designed to reshape the Planning Commission and directly related to his office as ex officio member. The Michigan Supreme Court approved the framework that, when seeking the removal of an official for misconduct in office, "the misconduct which shall warrant a removal of the officer must be such as *affects his performance of his duties as an officer.*" *Carroll v City Comm of Grand Rapids*, 265 Mich 51, 58; 251 NW 381 (1933). As stated by Ropeta, Planning Commission members have statutory duties "that can only be fulfilled through active *participation in meetings.*" (Ropeta Brief, p. 17, emphasis added.) Ropeta sought to make the performance of his duties more favorable to himself by changing the composition of the Planning Commission members and affect *his participation in and voting at meetings*. All of Ropeta's actions were taken with the goal of affecting the performance of his duties as a member of the Planning Commission. Thus, Ropeta's malfeasance and misfeasance were done with the goal of benefitting his office as a Planning Commission member.

It must be noted that the opposite result would have serious implications regarding any removal proceeding involving a person who holds two or more offices. Ropeta suggests that he can avoid consequences for any potential misconduct by acting in one official capacity to benefit a different office. This would give Ropeta and others

license to commit malfeasance as long as it was not in their capacity of the office under scrutiny. That cannot be the result that the Legislature desired in enacting MCL 125.3815. Unlike *Speed* or other cases, the conduct at issue was not done before Ropeta took office or related to any personal relationships or affiliations from Ropeta. Rather, Ropeta took unlawful action in an attempt to remove some of his colleagues on the Planning Commission so as to directly affect his performance as ex officio member. Ropeta's membership on the Planning Commission was to be the beneficiary of all of his actions, and his removal from that office was not a violation of a clear legal duty.

Moreover, Ropeta was ex officio member of the Planning Commission. This is a legal position under the statute, that provides that one member of the Board "must be appointed to the planning commission as an ex officio member." MCL 125.3815(5). Ropeta's term as ex officio member would have been concurrent with his term as a Trustee. MCL 125.3815(5)(c). Thus, Ropeta's position on the Planning Commission was linked and only arose from his status as a Trustee. He would have served the two positions concurrently, and Ropeta has not provided any authority to the idea that one's duties or official capacity can end on a whim so as to not affect possible malfeasance or misfeasance in office. See *Wilson*, 457 Mich at 243. Ropeta was on the Planning Commission by virtue of his status as a Trustee, and he was properly removed from his Planning Commission office because his actions were done with the goal of benefitting his own Planning Commission membership and goals.

C. This was not a criminal case, and Ropeta suggests an unrelated and high threshold for malfeasance and misfeasance that does not apply.

Ropeta also relies heavily on a definition of malfeasance that does not apply to this case. Ropeta cites *People v Coutu* for the definitions of malfeasance and

misfeasance. Ropeta has done so intentionally so as to create the illusion of a high threshold that the Board had to achieve for his removal, that it requires "intentional or purposeful misconduct." (Ropeta Brief, p. 15.) But *Coutu* is a criminal case and not applicable to these proceedings. "The definitions in the civil area and in the criminal area are not interchangeable." *Mitchell v Daly*, 133 Mich App 414, 426; 350 NW2d 772 (1984).

As discussed above, Ropeta's removal proceedings were quasi-judicial and decidedly not criminal in nature. The *Coutu* panel repeatedly cited criminal treatises and criminal cases in its discussion of the mens rea necessary for misconduct in office charged under MCL 750.505. *People v Coutu*, 235 Mich App 695, 704-707; 599 NW2d 556 (1999). *Coutu* came to the conclusion that "*the crimes for which defendants were charged* require a showing of corrupt intent." *Id.* at 706 (emphasis added). Ropeta was not charged with any crimes, only malfeasance and misfeasance in office. Superintending control is only available for lower tribunals "acting in a judicial or quasi-judicial capacity." *Fort v City of Detroit*, 146 Mich App 499, 503; 381 NW2d 754 (1985). Ropeta acknowledges that the substantial evidence test is relevant here and makes no claim that the Board had a reasonable doubt threshold or anything approaching criminal procedures to follow. There is no unique mens rea requirement based on the ordinary meanings of those words in the statute. And based on the ordinary meanings, Ropeta committed unlawful acts that warranted his removal.

The Court's Ruling

Plaintiff has failed to show that the Board "failed to perform a clear legal duty" that would entitle him to the extraordinary relief of superintending control. There is no

dispute that the Board had the authority to charge and remove Plaintiff from the Planning Commission under MCL 125.3815(9) for misfeasance or malfeasance, after written charges and a public hearing. The statute does not define the terms misfeasance or malfeasance, so the Court can look to the ordinary meanings as defined in a dictionary. *Hardenbergh*, 323 Mich App at 522. Malfeasance is a "wrongful or unlawful act" or "misconduct or wrongdoing." *North Country Agency*, 269 Mich App at 687. Misfeasance means doing "an act which might be lawfully done, in an improper manner." *Stark Hickey*, 291 Mich at 357.

Plaintiff's conduct was "wrongful". He drafted the letter alleging charges against Planning Commission members despite the fact that there was no attendance mandate in the bylaws. The fact that he believed he was justified based on communications with a retired judge and his own review of the MPEA is irrelevant. He argues that the MPEA imposes duties on Planning Commissioners to engage in master planning, recommending zoning ordinance amendments, and approving site plans, and that they "can only be fulfilled through active participation in meetings." (Ropeta Brief, p. 17). Plaintiff is entitled to his opinion, but nothing in the MPEA or the bylaws imposes a specific attendance requirement and Plaintiff acted wrongfully when he attempted to impose one.

Plaintiff improperly sought to remove members of the Planning Commission based on his belief that Supervisor Carnes had the authority to do so. But even a cursory reading of the MPEA reveals that only the "legislative body" has this authority. MCL 125.3815(9). The statute clearly defines "legislative body" as "the county board of commissioners of a county, the board of trustees of a township, or the council or other elected governing body of a city or village." MCL 125.3803(e). Thus, the Court rejects

Plaintiff's argument that he conducted his own research and "acted in good faith reliance on his understanding of the law". (Ropeta Brief, p. 18).

Assuming Plaintiff's concerns about attendance was justified, there were proper means available to address this, including raising the issue at a public hearing and getting Board approval before drafting a letter purporting to be from the Board. At a minimum, Plaintiff's conduct amounts to misfeasance.

The Court disagrees with Plaintiff's argument that he can only be removed for "intentional or purposeful conduct". Plaintiff relies on definitions of malfeasance and misfeasance in the criminal context, citing *People v Coutu*. The removal proceedings here are not criminal in nature, and *Coutu* is inapposite. Plaintiff was not charged with a crime of misconduct in office, and there is no mens rea requirement.

The Court rejects Plaintiff's argument that he cannot be removed from his position on the Planning Commission for actions he took as a Board Trustee. He was an ex officio member of the Planning Commission by virtue of his membership on the Board. See MCL 125.3815(5) (one member of the Board "must be appointed to the planning commission as an ex officio member."). Plaintiff's term as ex officio member would have been concurrent with his term as a Trustee. MCL 125.3815(5)(c). Thus, his position on the Planning Commission was linked to and *only arose from his status as a Trustee*. He would have served the two positions concurrently, and he has not provided any authority for the argument that his duties or official capacity can be separated so as to avoid a claim of malfeasance or misfeasance in office. See *Wilson*, 457 Mich at 243.

WHEREFORE, IT IS HEREBY ORDERED that Plaintiff is not entitled to an order for superintending control, and the Complaint is dismissed.

This Order resolves the last pending claim and closes the case.

IT IS SO ORDERED.

9/26/2025

Susan Longsworth (P65575)
Circuit Judge

STATE OF MICHIGAN 44TH CIRCUIT COURT JUDICIAL CIRCUIT LIVINGSTON	PROOF OF SERVICE FOR PARTY NOTIFICATION	CASE NO. 2025 0000000400-AS

204 S HIGHLANDER, STE 4
HOWELL, MI 48843

(517)546-9816

Judge: SUSAN LONGSWORTH

Date: FRIDAY SEPTEMBER 26, 2025

Plaintiff/Petitioner	v	Defendant/Respondent
		TYRONE TOWNSHIP BOARD OF TRUSTEES

SEE ENCLOSED OPINION AND ORDER DATED 9/26/2026.

CERTIFICATE OF MAILING

The following parties were served by e-mail (MCR 2.107(C)(4)):

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