

IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS

FILED
McHENRY COUNTY, IL

DEC 28 2021

Joseph J. Tirio
COUNTY CLERK

GRAFTON TOWNSHIP ROAD DISTRICT,)
and FRANK KEARNS, in His Official)
Capacity as the Grafton Township Highway)
Commissioner,)

Plaintiffs,)

vs.)

GRAFTON TOWNSHP, a unit of local)
government, and MATTHEW COOPER,)
SEAN CRATTY, LESLI MELENDY, and)
DANIEL ZILLER, JR., in Their Official)
Capacities as Grafton Township Trustees;)
ERIC RUTH, in His Official Capacity as)
Grafton Township Supervisor; all in Their)
Official Capacities as Members of the)
Grafton Township Board of Trustees and)
formally known as the Grafton Township Board;)
GRAFTON TOWNSHIP BOARD,)

Defendants.)

Case No. 21 MR 001086



ORDER

THIS CAUSE coming before the Court for hearing on Plaintiffs' Complaint for Mandamus and Declaratory Judgment. This Court having jurisdiction, and the parties agreeing that there are no facts at issue, and the Court having read the pleadings, and hearing argument from the parties:

THE COURT HEREBY FINDS:

1. That the Grafton Township Highway Commissioner has the right and sole authority to determine the Levy for the Road District.
2. That the Grafton Township Board has the ministerial duty to levy and certify the Road District Levy to the McHenry County Clerk as determined by the Highway Commissioner.

3. That the Township Board does not have the authority to alter, amend, modify, change, reduce or otherwise give discretion to the Road District levy determined by the Highway Commissioner.
4. The last day to levy and certify the 2021 Road District Levy to the McHenry County Clerk is December 28, 2021.

IT IS HEREBY ORDERED AS FOLLOWS:

- 1) Judgment shall enter for mandamus and declaratory judgment in favor of the Plaintiffs and against the Defendants.
- 2) ~~That~~ the Defendants shall certify the Road District Levy, as determined by the Highway Commissioner, without any modifications or alterations, and then submit the Levy to the McHenry County Clerk ~~on or before the last Tuesday in December of~~ ~~2021~~ ~~2021~~. Defendants shall include with the Road District Levy a Truth in Taxation Certificate of Compliance. **** Nunc Pro Tunc at their next meeting and ADAPT + CERTIFY the Amended Levy to the County Clerk*
- 3) The Road District Levy as determined by the Highway Commissioner is as follows: Road and Bridge Fund in the amount of \$224,590.00, Insurance Fund in the amount of \$10,519.00; IMFR Fund in the amount of \$12,629.00; and Permanent Road Fund in the amount of \$573,227.00; for a total Road District Levy amount of \$820,965.00.
- 4) ~~That the Grafton Township Highway Commissioner is hereby appointed attorney in fact for the Grafton Township Board for the ministerial duty and limited purpose of levying and certify the Road District Levy to the McHenry County Clerk by December 28, 2021.~~
- 5) This Court reserves the issue of damages and costs pending compliance of the writ of mandamus by the Defendants.

IF THE COUNTY CLERK DOES NOT ACCEPT PROVIDED AS ORDER IN #4) LOW THEN



DATE: _____

ENTERED: _____

Kevin G. Costello
 Honorable Kevin G. Costello

JUDGE

4. That the LEVY ORANGE ROAD DISTRICT ROAD LEVY 2021 DATED DECEMBER 20, 2021, and filed with county clerk dated December 21, 2021 is Amended to be provided in Part of this ORDER. AND A COPY of this ^{LEVY} ORDER shall be filed Part with the County Clerk. #3 KEC