

By JUSTIN COOPER Daily News Staff Writer Mar 8, 2022 Updated Jun 14, 2022

Monona Drive empty land

The city is deciding what to do with empty land on Monona Drive, past the brick structure pictured at left on Tuesday, March 8. The structure is a lift station, which elevates sewage so gravity can carry it to the Wastewater Treatment Plant.

Two parcels of land in the Forest Hills subdivision have brought the City of Ludington to an impasse with a descendant of one of its major families, the Cartiers, that could result in legal action.

Nobody's headed to the courthouse over it yet, but the situation touches on the city's relationship with a family whose name looms large in its history and adorns some of its key attractions.

The property in question is west of Monona Drive at its intersection with Seminole Drive, north of a small brick structure. That patch of grass, dotted with trees and nestled next to a forest, contains two lots. Both could have houses built on them if not for a deed restriction saying they can only be used for a playground.

There's no need for a playground there now, with two already at nearby schools, said City Manager Mitch Foster. And a recent survey of city staff yielded no other uses for the land than selling it for development.

There's some wiggle room in the deed that could free the lots up for that, according to City Attorney Ross Hammersley. But pursuing that could trigger a legal spat with Mary Cartier, the next of kin in a family line that once owned all of the land surrounding the lots.

If the city pressed the issue, it could hope to sell the land for about \$100,000 and add two housing units into a tight market, Foster said. But the legal fees involved in doing so could dampen that financial gain, and at least one city councilor wasn't eager for a fight with a Cartier when the situation was discussed in February.

“For as much as the Cartier family has done for this community, the last thing that I would like to see is having to go to court over a couple of lots,” City Councilor Les Johnson said.

From the city’s earliest days, the Cartiers held political offices, ran major businesses and owned swaths of land that ultimately became the park and campground bearing their name, as well as other tracts like the Forest Hills subdivision.

“The Cartier family in general has had a huge impact on the City of Ludington over the years,” Foster said. “That’s why I think you saw (the city council) want to take a very sensitive and understanding approach to this issue.”

A WAY OUT?

Hammersley said the city had a possible case because the deed restriction is “very sparse” and unusually vague.

For example, it doesn’t say what happens if the restriction is broken, lacking an “enforcement mechanism” ordinarily found in deed restrictions, he said. It reads simply that the lots are “to be used only for playground purposes for children.”

What if the city builds something other than a playground? What if it builds a playground and something else, too? Does the land go back to the Cartiers? These are unanswered questions, he said.

The city came up empty-handed looking for anything that could clarify the intent behind the restriction, and Cartier could not produce documents from that time to shed some light.

“Bottom line was: we’re pretty much assured there are no documents we can readily find that would illuminate this circumstance any more,” Hammersley said.

One person who’s not confused is Mary Cartier, who believes the land should revert to her if the restriction is broken, according to her attorney, Thomas Kuiper.

Kuiper also said he doesn't think Hammersley's argument holds much water. It's helpful when deeds are specific, but they don't have to be, he said.

"The law is still clear that if the condition fails, then the deed reverts to the grantor," meaning the person who granted the land, he said. Since both of Cartier's parents and her older sister are dead, she is the grantor by default, he said.

Hammersley said a probable legal route would be a quiet title action, where the city would argue before a judge that the restriction is ambiguous and unenforceable. The judge would then give one party or the other a clear claim to the title.

The Ludington City Council talked about the situation at its Feb. 14 meeting, but didn't offer Foster and Hammersley much in the way of guidance at that time. Kuiper said Tuesday "the proverbial ball is in (the city's) court."

HOW DID THE RESTRICTION GET THERE?

Mary Cartier's father, Morgan Cartier Jr., sold the lots to the city for \$1 in 1966, along with the rest of what became the Forest Hills subdivision. Then 17 years later, a restriction was added to the deed saying two lots, 91 and 92, were to be used for playgrounds.

The restriction was added in 1983 following a vote of the city's board of commissioners, now the city council.

A list of surplus city property was being put together at that time, and a commissioner said those lots had to be removed from that list because they'd been deeded over for playground use. Commissioners then voted to add the apparently neglected deed restriction.

But the meeting minutes don't explain how the commissioner, Ted Weinert, knew about any forgotten restriction on the lots, and Weinert did not respond to a request for comment.

"We assume it was through discussion with the Cartiers," Foster said.