

Plain English in Resolutions

By George H. Hathaway

We are currently trying to find Clarity Award documents in the category of laws for state, county, city, and township resolutions. Here is our status so far:

State Resolutions

Resolutions of the Michigan Legislature are published in the daily House and Senate Journals (now available on the Internet at www.michiganlegislature.org). We have written previous columns about these resolutions to try to eliminate the legalese such as *whereas* and *now, therefore* from the resolutions.¹ In the past, the Michigan House has passed two resolutions that were written in plain English. The first was Representative Ciaramitaro's 1988 HR 691. The second was Representative Willard's 1995 HR 302, for which we gave a 1997 Clarity Award. See Figure 1. Furthermore, Representative Willard has written and offered the following proposed resolution (now pending in Representative Gagliardi's House Oversight Committee as House Resolution 120 and House Concurrent Resolution 49):

A resolution to call for the House of Representatives and the Senate to draft resolutions in plain English. . . .

While not every issue or action can be simplified to the same level, there are several steps the Legislature can take to remove barriers to communications. One area where an-

"Plain Language" is a regular feature of the **Michigan Bar Journal**, edited by Joseph Kimble for the State Bar's Plain English Committee. The assistant editor is George Hathaway, chair of the Committee. The Committee seeks to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

tiquated language can be removed is how resolutions are drafted. Removing meaningless expressions can be an important symbol of sensitivity to the need to make our actions and documents as clear as possible.

The use of archaic words and phrases, including "whereas" and "now, therefore, be it," adds nothing to explaining actions the Legislature takes in considering and adopting

resolutions. Instead, they only make the documents more cumbersome. . . .

The Clerk of the House, 17 of the 110 representatives, and 4 of the 38 senators are lawyers. Of the 30,000 lawyers in the State Bar of Michigan, these 22 lawyers have the most control over the style of state resolutions.

Figure 1

No. 77]	1995 JOURNAL OF THE HOUSE	2495
Rep. Willard moved to substitute (H-1) the resolutions as follows:		
Substitute for House Resolution No. 302.		
A resolution urging the United States Congress, the president of the United States, and the United States Department of Veterans Affairs to establish a satellite veterans hospital facility in Yale, Michigan.		
Veterans have sacrificed greatly to ensure the liberties we so often take for granted here in America. These men and women left their homes and families and all they held dear behind them to serve on foreign shores or to be prepared to defend our own land.		
They unselfishly put everything on the line on our behalf, often sacrificing their health in the process. Others, more fortunate, returned to civilian life unimpaired, but are now facing the prospects of failing health due to aging. Clearly, these men and women are deserving of the highest quality health care available.		
In the five-county area comprised of Macomb, St. Clair, Sanilac, Lapeer, and Huron Counties, there are approximately 115,000 resident veterans. These citizens must travel distances of up to 120 miles to seek medical treatment to which they are entitled under the Code of Federal Regulations.		
The veterans who live in this five-county area in Michigan's Thumb have established the Five County Veterans Committee and charged the committee with the task of urging the federal government to become more responsive to the needs of local veterans. The committee supports the establishment of an outpatient clinic, operated by the Department of Veterans Affairs, in Yale, Michigan. This location would greatly enhance health care options for local veterans and would also provide for economic growth within the community.		
It is resolved by the House of Representatives that we urge the United States President, the United States Congress, and the Department of Veterans Affairs to establish a satellite veterans hospital facility in Yale, Michigan.		
It is further resolved that a copy of this resolution be transmitted to the President of the United States, the Secretary of Veterans Affairs, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.		
The motion prevailed and the substitute (H-1) was adopted, a majority of the members serving voting therefor.		
The resolution was adopted.		

County Resolutions

County resolutions are passed by county Boards of Commissioners. But these resolutions are not printed in any journals nor widely published.

City of Detroit Resolutions

Resolutions of the Detroit City Council are published in the weekly *City of Detroit: Journal of the City Council* (available at the Office of the Clerk in the City-County Building). The mayor and the corporation counsel are the two members of the State Bar who have the most control over the style of those resolutions.

Resolutions of Other Cities

Resolutions of the city councils of other cities are not published in journals. They are printed separately and are therefore not widely published. Under MCL 117.7, a "city" has a population of 2,000 or more. The largest cities are Detroit (1,028,000), Grand Rapids (189,000), Warren (145,000), Flint (140,000), Lansing (127,000), Sterling Heights (118,000), Ann Arbor (110,000), Livonia (101,000), Dearborn (89,000), and Kalamazoo (80,000). Each of these cities has a city attorney (listed on pages 188 to 190 of the April 1997 directory issue of the *Bar Journal*) who has the most control of any member of the State Bar over the style of the cities' resolutions. In addition, most cities in Michigan are members of the Michigan Municipal League (representing 270 cities, with offices in Ann Arbor). William Steude is of counsel to the legal staff of the League. He has asked city and village attorneys to submit sample resolutions (and other legal documents) for possible Clarity Awards. We asked some of these attorneys if they supported the efforts to eliminate legalese such as *whereas* and *now, therefore* from city resolutions. We also asked them when all city resolutions would be written in plain English. Here are the replies.

From Grand Rapids City Attorney Philip Balkema:

Thank you for your note offering the opportunity to inform you of our efforts here in Grand Rapids to address the "plain language" challenge. As evidenced by the enclosed Administrative Policy dated March of 1991 [see above], we have made serious attempts to use plain English in our City

Grand Rapids Administrative Policy Number 69-04 (Rev March 1991):

- Subject:** City Commission Resolutions
- Purpose:** To establish a uniform format to be used in drafting City Commission resolutions
- Policy:**
- A. *Resolution Format.* City Commission resolutions shall consist of a committee recommendation followed by a resolution. The committee recommendation shall consist of a statement that the committee recommends adoption of a resolution and a short, concise summary of what the resolution provides. The resolution shall begin with the word "RESOLVED" (in CAPITAL letters) followed by a clear, concise statement of what the City Commission is doing.
 - B. *Example.* Your Committee of the Whole recommends adoption of the following resolution approving a contract between the City of Grand Rapids and XYZ Corporation.
 - C. *Introductory Statements.* The use of the introductory statements beginning with "WHEREAS" is discouraged...

Figure 2—Grand Rapids City Commission Resolution No. 64015

(From November 4, 1997 Consent Agenda, page 751)

64015 Com. Worst, supported by Com. Schmidt, moved adoption of the following resolution under the Consent Agenda.

RESOLVED, that a 23rd Year Community Development Block Grant Agreement in a form to be approved by the City Attorney between the City and Family Talk, Inc. for a youth counseling program for the period of November 1, 1997 through September 30, 1998, in an amount not to exceed Twelve Thousand Dollars (\$12,000) [note: figures alone would do it], is approved and the Mayor is authorized to execute the Agreement for the City.

Commission resolutions. I believe we are making good progress in that regard, despite occasional lapses into the "whereas" world. Our next goal is to eliminate the "In witness whereof" which has adorned contracts since time immemorial. Keep up the good work!

From Warren City Attorney George Constance:

As City Attorney for the City of Warren, I applaud both your efforts and those of past recipients of the Clarity Award. I am a proponent of this concept, and I will initiate a meeting with both the Mayor and the City Council Secretary to put forth not only the virtues of this concept, but also the practical application of any official document written in plain English.

From Sterling Heights City Attorney Paul O'Reilly:

As you are aware, our firm represents the cities of Fraser and Sterling Heights, as well as the Charter Township of Shelby. We have been working with all three com-

munities to eliminate the legalese, such as *whereas* and *now, therefore* from these resolutions. When we prepare the resolutions, they are done in plain English. However, in many instances, the resolutions are prepared by other representatives of the community, and the legalese remains. It is an ongoing effort, but we are making reasonable strides in this regard.

Township Resolutions

Township resolutions are passed by Boards of Trustees. Most townships in



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Michigan Land Title Standards

Fourth Supplement (1997) to the 5th Edition

The Land Title Standards Committee of the Real Property Law Section of the State Bar has prepared and published the Fourth Supplement (1997) to the 5th Edition of the Michigan Land Title Standards.

The Fourth Supplement consists of the following new or revised Michigan Land Title Standards as follows:

- Standard 14.2—Assignability of Easements in Gross
- Standard 14.3—Termination of Easements Created by Reservations of Grant
- Standard 14.4—Termination of Easements Created by Prescription
- Standard 14.6—Creation of Easements by Grant
- Standard 27.1—Leasehold Estate Created by a Written Instrument
- Standard 27.2—Effect of Conveyance of Fee Title on Lessor's Interest in Lease
- Standard 27.3—Effect of Foreclosure on a Lease Made After a Recorded Mortgage
- New Table of Contents for the 5th Edition

The price of the supplement is \$10.60, which includes postage and sales tax. An order form has been provided for your convenience. Remittance must accompany all orders and make checks payable to the State Bar of Michigan.

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Michigan are members of the Michigan Township Association (Executive Director, Jack La Rose, with offices in Lansing). Each township has a township attorney (listed on pages 190-193 of the April 1997 directory issue of the *Bar Journal*) who has the most control of any member of the State Bar over the style of township resolutions.

Clarity Award

We give our first Clarity Award for next year (1999) to the City of Grand Rapids' City Commission Resolution No. 64015. See Figure 2 on previous page. This resolution proves that city resolutions can be written in plain English without legalese.

Conclusion

We would like to find more Clarity Award documents for house, senate, county, city, and township resolutions. We have been giving Clarity Awards for several years now for Michigan statutes and Michigan rules. We would like to build on these awards by finding a number of clearly written resolutions. Legalese acts as a dam that impedes the flow of clear ideas. Eliminating the legalese in resolutions would help support the State Bar's goals for public understanding of, respect for, and openness of the legal profession. To do this, we need the help of the 300 members of the State Bar who have the most control over the style of state and city resolutions. But we don't need all 300 members. We simply need a few to punch holes in the dam of legalese.² ■

Footnotes

1. *The Seventh Annual (1998) Clarity Awards*, 77 Mich B J 298 (March 1998); *Examples of Clarity v Legalese in Laws*, 77 Mich B J 198 (February 1998); *Legal Documents and Clarity Awards*, 77 Mich B J 82 (January 1998); *Plain English Subcommittee on Laws*, 76 Mich B J 716 (July 1997); *The 1997 Clarity Awards*, 76 Mich B J 448 (May 1997); *Promoting Plain English in Laws, Lawsuits, and Contracts*, 76 Mich B J 937 (Sept 1996); *Plain English in the Twenty Types of Legal Documents*, 75 Mich B J 684 (July 1996); *Resolutions*, 74 Mich B J 695 (July 1995); *Legalese List for Laws*, 74 Mich B J 194 (Feb 1995); *Summary of Laws, Rules, and Lawsuit Papers Part 1*, 72 Mich B J 932 (Sept 1993); *Plain English in Laws and Rules*, 72 Mich B J 566 (June 1993).
2. "Le Dam Legalese" in Quebec.