

Application of
THE PRESERVATION ASSOCIATION OF BEAVER ISLAND
for a Construction Permit

ATTACHMENT D

ESTABLISHED LOCAL APPLICANT DOCUMENTATION – AFFIDAVIT OF JUDITH GALAGHER
(including Articles of Incorporation of Application and Confirmation of 501(c)(3) Status)

AFFIDAVIT OF JUDITH GALLAGHER

I, Judith Gallagher, declare and state as follows:

My name is Judith Gallagher. I have personal knowledge of the facts set forth in this declaration and, if called to testify, I could competently testify to the following facts.

1. I am a director and the president of The Preservation Association of Beaver Island ("*PABI*"). I have served in that capacity since 2018 and previously served in that capacity from 2001 to 2015. PABI is the current licensee of WVBI-LP ("*WVBI*") and is filing an application with the Federal Communications Commission ("*FCC*") for authority to construct a new non-commercial educational FM station on Beaver Island (the "*Station*") to improve the service now being provided by WVBI (the "*Application*").
2. If PABI is awarded a Construction Permit for the Station, it will divest itself of WVBI prior to commencing operation of the Station.
3. PABI was formed as a corporate entity on August 9, 1994. PABI has been in existence as a nonprofit educational organization continuously since that date. A true and correct copy of its Articles of Incorporation as filed with the State of Michigan is attached as Exhibit A. A copy of a letter from the U.S. Department of Treasury confirming PABI's status as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code is attached as Exhibit B.
4. PABI's headquarters and main offices ("*PABI HQ*") are located in the building it owns at 26215 Main Street, Beaver Island, MI 49782. PABI HQ is within twenty-five (25) miles of the reference coordinates for the proposed community of license identified in the Application (the "*Reference Coordinates*").
5. PABI has continuously operated from and used PABI HQ as its headquarters since 2008 when PABI finished construction of the building.
6. The main studio for the station proposed in the Application will be at the PABI HQ.
7. At least seventy-five percent (75%) of the members of the governing board of PABI had a residence within twenty-five (25) miles of the Reference Coordinates from the formation of PABI in 1994 through at least the date PABI opened the PABI HQ in 2008. This has also been the case continuously for the members of PABI's governing board for at least two years prior to the date of this Affidavit.
8. PABI's mission is to promote an enduring sense of community, cooperation, and pride among the Island's diverse friends, families, and visitors. This includes helping to preserving the historical landmarks, architectural character, natural environment, and cultural traditions that distinguish Beaver Island from the mainland—retaining the unique community qualities and values for those making the Island home for part or all of the year. Inherent in this mission is a purpose to educate island residents and visitors about the history, traditions, and unique ecological features of the island as well as working to inform decisions being made about our future.
9. PABI executes its mission in a variety of ways using both the facilities at the PABI HQ, WVBI and through outreach to the community. The PABI HQ includes a theater and a

community gathering space as well as a full commercial kitchen and office space. The theatre facilities are used to present community theatre events (including those organized by the island's primary and alternative schools), musical events (that include traditional Irish music as well as folk, jazz, classical and other genres), theater and dance performances, presentations by island and off-island experts on topics of current and historical interest, community forums and discussions aimed at resolving issues and planning for the island's future, and screening of films for both entertainment and education. The theater and the gathering space are used for community education classes such as computer training, cooking, fitness and other topics as well as for community forums and meetings, author and other presentations and as impromptu meeting space for community projects. The gathering space also serves as a youth "hangout" where younger residents and visitors socialize, play games and, occasionally, do homework. PABI's facilities also served as the island's senior center for a number of years and still hosts exercise, education and other events for seniors. In the PABI HQ we have commissioned and are in the process of installing a series of murals that trace the history of the island from pre-history through modern times.

10. PABI also executes its mission through programming on WVBI. WVBI provides a weekday news service that covers local, regional national and global news that includes special attention to local events. Its music intensive format includes format slots for island artists and music that reflect both the island's Irish heritage and contemporary works. WVBI features essays from island writers and locally produced music shows including one that features Michigan musicians and composers (including from the island). It has produced historical documentaries about the island working in cooperation with our local school and historical society as well as radio plays working with students at the school and the island's theater workshop.

In making the statements set forth in this declaration, I acknowledge that this declaration will be submitted to FCC, that the FCC and PABI are relying on the truth of the statements made herein, and that I may be subject to criminal penalties, including imprisonment and fine under 18 U.S.C. 1001 for any false or misleading statements made herein.

I declare under the penalty of perjury under the laws of the State of Michigan that the foregoing is true and correct and that this Declaration was executed this 5th day of November 2021, at Beaver Island, Michigan.


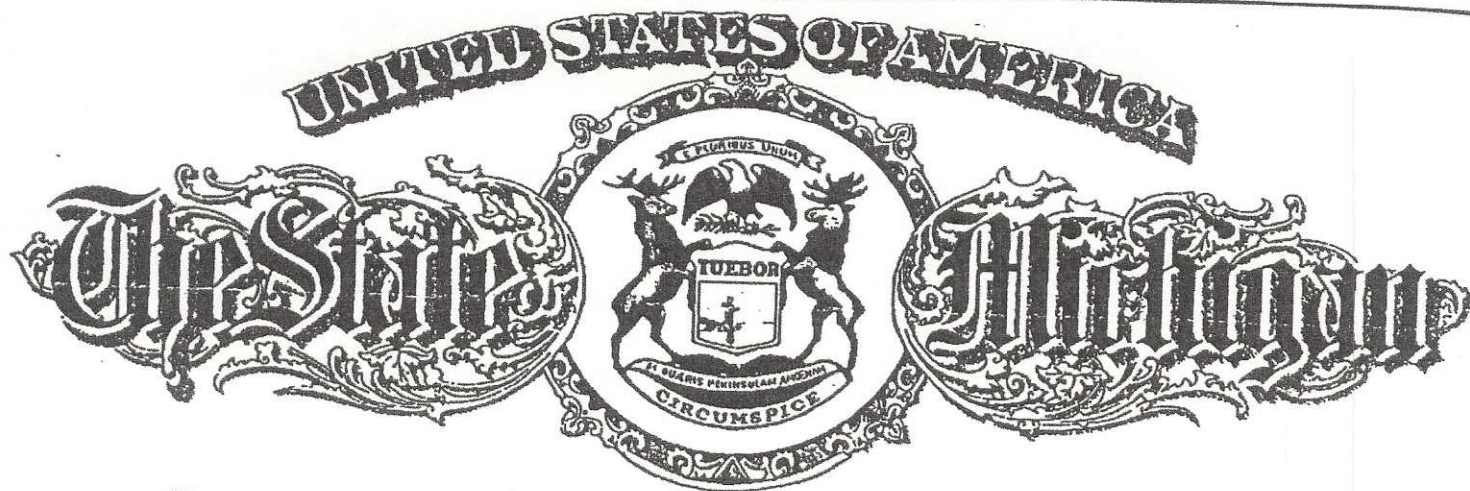

Judith Gallagher

EXHIBIT A

**ARTICLES OF INCORPORATION OF
THE PRESERVATION ASSOCIATION OF BEAVER ISLAND**



Michigan Department of Commerce

Lansing, Michigan

This is to Certify That Articles of Incorporation of
THE PRESERVATION ASSOCIATION OF BEAVER ISLAND

were duly filed in this office on the 9th day of August, 1994,
in conformity with Act 162, Public Acts of 1982.



In testimony whereof, I have hereunto set my
hand and affixed the Seal of the Department,
in the City of Lansing, this 9th day
of August, 1994.

Carl L. Lysen, Director
Corporation & Securities Bureau

FILED

AUG 9 1994

Administrator
MICHIGAN DEPARTMENT OF COMMERCE
Corporation & Securities Bureau

ARTICLES OF INCORPORATION

OF

THE PRESERVATION ASSOCIATION OF BEAVER ISLAND

July 15, 1994

RECEIVED

AUG - 4 1994

MICHIGAN DEPT. OF COMMERCE
CORPORATION & SECURITIES BUREAU

726-869

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

ARTICLE I

The name of the corporation is THE PRESERVATION ASSOCIATION OF BEAVER ISLAND.

ARTICLE II

1. The purpose or purposes for which the corporation is organized are exclusively for charitable, educational, scientific or literary purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"), or corresponding provisions of any subsequent federal tax laws, including the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Code.

2. The corporation is formed for the purpose of preserving the historic and architectural character of Beaver Island through the acquisition, restoration, and preservation of historically or architecturally significant properties, and subsequent sale, lease or operation of those properties in a manner which will preserve the historical character or architectural significance of the properties.

3. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. Notwithstanding any other provision of this document, the corporation shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under Section 501(c)(3) of the Code, or (b) by an organization, contributions to which are deductible under Section 170(c)(2) of the Code, or corresponding section of any future federal tax code.

4. Upon the dissolution or liquidation of the corporation, assets shall be distributed among such organizations as shall qualify at the time as an exempt organization as described in Code Section 501(c)(3) as the Board of Directors shall determine. Any such assets

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not disposed of shall be disposed of by the Kent County Circuit Court, Kent County, Michigan, exclusively for such purposes or to such organizations, as said Court shall determine, which are organized and operated exclusively for such purposes. The corporation shall not engage in any transaction or do or permit any act or omission which shall operate to deprive it of its tax exempt status under Section 501(c)(3) of the Code.

5 If the corporation is a private foundation as defined in Section 509 of the Code:

(a) The corporation will distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code, or corresponding section of any future federal tax code;

(b) The corporation will not engage in any act of self dealing as defined in Section 4941(d) of the Code, or corresponding section of any future federal tax code;

(c) The corporation will not retain any excess business holdings as defined in Section 4943(c) of the Code, or corresponding section of any future federal tax code;

(d) The corporation will not make any investments in such manner as to subject it to tax under Section 4944 of the Code, or corresponding section of any future federal tax code;

(e) The corporation will not make any taxable expenditures as defined in Section 4945(d) of the Code, or corresponding section of any future federal tax code.

ARTICLE III

The corporation is organized on a non-stock basis.

The corporation has no real property or personal property assets.

The corporation is to be financed through contributions from individuals, foundations or other organizations.

The corporation is organized on a directorship basis.

ARTICLE IV

c/o General Delivery

The address of the registered office is, *Beaver Island, Michigan. 49782*

The name of the resident agent at the registered office is: Dennis Clarkson.

ARTICLE V

The name and address of the Incorporators are:

NAMEBUSINESS ADDRESS

Dennis Clarkson

c/o General Delivery, Beaver Island,
Michigan 49782

Joseph D. Reed

c/o General Delivery, Beaver Island,
Michigan 49782

Phillip F. Lange

c/o General Delivery, Beaver Island,
Michigan 49782


ARTICLE VI

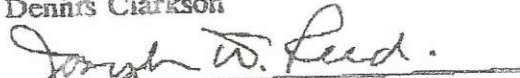
A volunteer director shall not be personally liable to the corporation or its members for monetary damages for a breach of the director's fiduciary duty. This provision shall not eliminate or limit the liability of a director for any of the following:

- (a) A breach of the director's duty of loyalty to the corporation or its members;
- (b) Acts or omissions not in good faith or that involve intentional misconduct or a known violation of law;
- (c) A violation of Section 551(1) of the Michigan Nonprofit Corporation Act;
- (d) A transaction from which the director derived an improper personal benefit;
- (e) An act or omission occurring before the date of filing;
- (f) An act or omission that is grossly negligent.

The corporation assumes all liability to any person other than the corporation or its members for all acts or omissions of a volunteer director occurring on or after the date of filing, to the fullest extent allowed by Michigan law.

We, the Incorporators, sign our names this 15th day of July, 1994.


Dennis Clarkson


Joseph D. Reed


Phillip F. Lange

EXHIBIT B

**U.S. TREASURY LETTER
CONFIRMING 501(C)(3) STATUS**

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: JUL 8 3 1960

The Preservation Association of
Beaver Island
c/o Maureen K. Russell
PO Box 494
Beaver Island, MI 49782

Person to Contact:
D. A. Downing
Telephone Number:
513-241-5199
Fax Number:
513-684-5936
Federal Identification Number:
38-3192993

Dear Sir or Madam:

This letter is in response to your request for a copy of your organization's determination letter of exempt status. This letter will take the place of the copy you requested.

Our records indicate that a determination letter issued in September of 1960, granted your organization exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. That letter is still in effect.

Based on information subsequently submitted, we classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Code because it is an organization described in section 509(a)(1) & 170(b)(1)(A)(vi) of the Code.

This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's sources of support, or its character, method of operations, or purposes have changed, please let us know so we can consider the effect of the change on the exempt status and foundation status of your organization.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of \$20 a day, up to a maximum of \$10,000, when a return is filed late, unless there is reasonable cause for the delay.

All exempt organizations (unless specifically excluded) are liable for taxes under the Federal Insurance Contributions Act (social security tax on remuneration of \$100 or more paid to each employee during a calendar year. Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes.