

MEMORANDUM

To: Board of Governors, Ave Maria School of Law

Late this morning, Dean Bernard Dobranski advised the faculty of Ave Maria School of Law that no decision regarding relocation of the Law School to Florida would be made at the September 27, 2006, Board meeting. The Dean further explained that there will be “an opportunity for faculty reaction . . . to the feasibility study before any such decision is made.”

Although we appreciate the promised opportunity to “react” to the feasibility study in its final form, we believe the Board of Governors should have available the current corporate judgment of the faculty. The faculty has, thus far, been denied an opportunity to provide its collective input to the Board or its consultants. In our view, the Board is entitled to this information as it considers further steps in its deliberative process. We hope that the attached resolution is received in the collaborative spirit it is intended and in which it is offered.

We look forward to the opportunity to react to the feasibility study in its final form.

September 26, 2006

Resolution of Opposition to the Proposed Relocation of
Ave Maria School of Law
to Ave Maria Town

Passed by
the Faculty of Ave Maria School of Law

September 26, 2006

WHEREAS, the Board of Governors of Ave Maria School of Law is considering a relocation of the Law School to Ave Maria Town, on land located near Immokalee, Florida;

WHEREAS, the feasibility-study update undertaken by Deans Thomas Read and James White has not included sufficient substantive meetings with any of the communities of faculty, students, and alumni, which constitute the Law School community;

WHEREAS, in particular, Deans Read and White have deliberately excluded substantive consultation with the faculty as a whole, acting corporately and in its capacity as the faculty of the Law School, to express its collective professional expertise as lawyers, teachers, and scholars to determine the probable impact of the proposed relocation on the Law School;

WHEREAS, such a relocation would constitute a major change in the Law School itself, impacting its ability to attract and retain high-quality faculty, students, and staff, and to find quality placements for graduating students, all of which are crucial for the fulfillment its mission of providing a high-quality legal education consistent with the Catholic intellectual tradition;

WHEREAS, goodwill in the form of professional contacts among lawyers, judges, and public officials in the Detroit and Ann Arbor metropolitan areas, as well as contacts among local colleges whose students have and might continue to attend the Law School at its current location, constitutes a non-transferable asset of the Law School, making it imperative that any proposed location be shown to be clearly in the Law School's best interests, rather than being merely "feasible;"

WHEREAS, continued consideration of the proposed relocation has caused great consternation among faculty, students, alumni, and staff, causing the transfer of many of our top students, the loss of faculty and potential faculty, the loss of staff, and enormous distraction within the Law School community;

WHEREAS, the faculty repeatedly have been told that there is no formal "offer" of concrete, guaranteed financial assistance as an inducement to relocate, but merely a speculative and unsecured promise of an unspecified proportion of speculative profits presumably to be gained from real-estate ventures related to Ave Maria Town;

WHEREAS, the faculty, recognizing its duty to the Law School community to exercise due diligence on its own part and to present the Board of Governors with facts and professional opinions essential for it to consider in fulfilling its members' joint and several fiduciary duty to the Law School, have gathered relevant facts and professional opinions provided herein, namely, that:

Despite the comments of the Dean, the Chairman of the Board of Governors, and the feasibility-study consultants, the persons who constitute the faculty of the Law School are not fungible assets. The American Bar Association ("ABA") accredited the Law School in consideration of the presence of a specific faculty. A substantial majority of that faculty is highly unlikely to relocate to the proposed location. This fact, in combination with the nature of the relocation itself, means that the relocation would constitute a "major change" as defined under Rule 20 of the ABA's Rules of Procedure for Approval of Law Schools, placing the full accreditation of Ave Maria at risk while bringing about the risk of its possible closure.

The Law School has proclaimed to its students that it would prepare them to practice with major law firms throughout the country. Recently, Ave Maria students had an opportunity to interview with major law firms as part of the annual recruitment of students attending the University of Michigan School of Law occurring across the street from Ave Maria's facility. We can anticipate further broadening such opportunities for our students in the coming years. No hope of such opportunities exists in Ave Maria Town. Indeed, the likelihood is that such opportunities will not be available for decades, if ever, in Ave Maria Town.

Judicial clerkship placements have been critical to the Law School's success in terms of its reputation, ability to place alumni in productive jobs, and ability to attract quality students, and have been aided by the close proximity of the chambers of federal appellate judges, federal district judges, and justices of state supreme courts. Dozens of federal judges have chambers in Detroit, 45 miles from Ann Arbor, the Michigan Supreme Court sits in Lansing, 65 miles from Ann Arbor, and the U.S. Courts of Appeals for the Sixth and Seventh Circuits are each based within 250 miles of Ann Arbor. In Ave Maria Town, the nearest base of a federal appellate court is in Atlanta, 607 miles from the proposed location, the nearest presence of a substantial number of federal judges is in Miami, 115 miles from the proposed location, and the nearest state supreme court sits in Tallahassee, Florida, over 425 miles from the proposed location.

Summer job placements are essential for Law School students to gain legal training and experience, and to find productive jobs upon graduation. Currently, students are within commuting and easy interviewing distance of hundreds of firms, some of which have major offices around the world, including in the Detroit and Ann Arbor metropolitan areas. The proposed location would be 30 miles from Naples, Florida, a city of 22,000 people in a metropolitan area with few firms with more than a handful of lawyers, and 115 miles from the nearest major metropolitan area, Miami.

Externship opportunities, which are crucial to the provision of practical educational opportunities for students, are available in abundance in the Detroit and Ann Arbor metropolitan areas, including the state capital, 65 miles from Ann Arbor. No such proximity to externship opportunities will exist at the proposed location, 425 miles from the nearest state capital and 115 miles from the nearest major metropolitan area.

Location is crucial to securing and retaining high-quality faculty, students, and staff. The Law School is currently just several miles from a large, world-class university providing intellectual stimulation, cultural amenities, and a vibrant, diverse environment within which to engage the broader world, including the broader, secular world. The proposed location, 30 miles from the small city of Naples, provides none of these advantages. The nearest university of significant size is in Miami, 115 miles from the proposed location. Moreover, the area surrounding the proposed location has a largely seasonal population due to severe weather and other environmental factors. Average daily high temperatures exceed 85 degrees for six months of the year in the area around Immokalee, Florida, with humidity reaching near 90 percent throughout all twelve months of the year.

The nature of the city itself, including affordability, also is crucial for attracting high-quality faculty, students, and staff. The average home price in Ann Arbor is \$230,000, and the city was rated number 25 among *Money* magazine's top 100 places to live. Neither Naples nor Immokalee made the list. National City Corp. reports that the average home price of \$383,000 in Naples (to which Ave Maria Town prices will be pegged) was overvalued by 102.6% in relation to employment, income and other variables.

The April 17, 2005 report of the University of Florida Bureau of Economic and Business Research includes a number of troubling findings regarding the Florida economy, and the Naples area economy in particular:

1. The Florida job structure ranks 44th in the nation, with Naples falling in the bottom half of Florida's Metropolitan Statistical areas in this regard.
2. Florida's income per resident is well below the national average and declining.
3. Florida's substandard education system is likely to continue producing substandard jobs and wage rates well into the future.

Given the geographical proximity of the proposed location to Ave Maria University, its location in Ave Maria Town, and the presence of some members of the Board of Governors on the governing board of Ave Maria University, relocation would constitute a *de facto* merger with an unaccredited institution.

Although the Dean, the Chairman of the Board of the Governors, and the feasibility-study consultants all have stated that Mr. Thomas Monaghan's financial support of the Law School will cease if it remains in its current location, and further implied that such loss of support would bring about the Law School's failure, the latest version of the Law School's ABA Self-Study indicates a healthy, growing Law School bound for financial independence.

The original feasibility study led the Board of Governors to conclude that relocation to Ave Maria Town is not in the best interests of the Law School. With the exception of the Law School's achievement of full accreditation, which constitutes a Law School asset not to be squandered or placed at undue risk, no relevant changes have occurred, leaving the force and relevance of that study's conclusions intact.

THEREFORE, BE IT RESOLVED that the undersigned faculty of the Law School find that a *prima facie* case for relocation of the Law School has not been made, that a relocation to Ave Maria Town, on land near Immokalee, Florida, would be against the best interests of the Law School, and that the Board of Governors should immediately reject and cease consideration of the proposed relocation.