

PRESS RELEASE

BIG RAPIDS CHARTER TOWNSHIP

Tuesday, April 18, 2023

Revised April 19, 2023

(Note: Minutes from Attorney are unapproved)

On Friday, March 17, 2023, the attorney for Big Rapids Charter Township (the Township) filed a draft Notice of Real Estate Transaction through the US Department of Treasury Committee on Foreign Investment in the United States (CFIUS) portal regarding the proposed Gotion real estate transaction in Mecosta County, Michigan, identifying Guoxan High-tech Co. Ltd. as the Chinese parent company of Gotion, Inc.

On Wednesday, March 29, 2023, CFIUS staff provided analysis of the draft notice, finding the submission “materially incomplete” because more information was required about Gotion and the real estate transaction. Because the required information was not available to Big Rapids Charter Township, the CFIUS staff encouraged the Township “to work with Gotion on submitting a joint filing that will meet CFIUS regulatory requirements for completeness.” The CFIUS staff would notify Gotion about the Township’s filing of its draft Notice of Real Estate Transaction.

The Township asked Gotion to

- 1) provide the necessary information for the Township’s attorney to complete the voluntary notice of a covered real estate transaction, OR
- 2) join in the voluntary notice with the Township and provide the information necessary to complete the joint filing, OR
- 3) file its own voluntary notice of a covered real estate transaction and provide all of the information necessary to complete the application with a copy to the Township’s attorney (excluding or redacting proprietary and personal information).

Gotion responded through its attorneys stating they were “not of the view that this is a covered real estate transaction” and they “intend to file a voluntary Declaration, rather than a voluntary Notice.”

On April 7, 2023, the Township’s attorney asked again “if Gotion officials will provide the information necessary for the Township to complete its Voluntary Real Estate Notice to/through the CFIUS portal, regardless of Gotion’s willingness and stated intention (according to you) to file the Declaration.”

On April 10, 2023, Gotion’s attorneys responded and acknowledged they were “preparing a voluntary CFIUS declaration on behalf of Gotion.”

After a telephone discussion between the attorneys for Gotion and the Township about the real estate transaction and pertinent CFIUS regulations, the attorneys for Gotion sent an email on April 14, 2023, with “excerpts from the CFIUS Declaration we filed today on behalf of Gotion Inc.” They included two pages of excerpts from the CFIUS Declaration in which they asserted on behalf of Gotion that this is not a “covered real estate transaction” because “the property is not in or part of any port” and “will not be in ‘close proximity’ to any military installation, facility, or property.” Gotion’s attorneys offered “to provide further information within our limited scope of authority to disclose information from the submission.” Gotion’s Declaration identifies multiple military installations within the “extended range” of less than 100 miles of the real estate to be acquired in Mecosta County, including Camp Grayling, “but none of those military installations are described in §802.227(h), (k), or (m) or identified in the list at part 2 of appendix A to 31 CFR 802.”

All of this was reported to the Big Rapids Charter Township Board during its special meeting held on Friday, April 14th, and Board members expressed some satisfaction and gratitude that Gotion filed a CFIUS Declaration regarding the real estate transaction in Mecosta County, Michigan. However, some Township Board members were disappointed in Gotion’s unwillingness to provide the information necessary for the Township to complete its own Real Estate Notice, or provide the information necessary for the Township and Gotion to file a joint Real Estate Notice in which the Township could assert that this is a covered real estate transaction and Gotion could assert that this is not a covered real estate transaction.

According to the US Department of Treasury website, upon review and determination that the Declaration is complete the Staff Chairperson will accept the Declaration and circulate it to all CFIUS agencies. The assessment period ends no later than the 30th day after the assessment period commences. Throughout the assessment period parties must respond to CFIUS requests for information.

On the website describing CFIUS there is a description of Declarations which is reprinted here.

Declarations provide for an abbreviated or light filing process that could result in shorter review timelines (i.e., a 30-day assessment period). The process remains largely voluntary, where parties may submit a short-form declaration notifying CFIUS of a covered transaction in order to receive a potential “safe harbor” letter (which limits CFIUS from subsequently initiating a review of a transaction except in certain limited circumstances). In some circumstances, filing a declaration for a transaction is mandatory. In particular, under 31 C.F.R. § 800.401, the regulations implement FIRRMA’s mandatory declarations for covered transactions where a foreign government is acquiring a “substantial interest” in certain

U.S. businesses and certain covered transactions that involve critical technologies.

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