

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TIMBER CREEK HOMES, INC.)	
)	
Petitioner,)	
)	PCB No. 14-99
v.)	(Pollution Control Facility
)	Siting Appeal)
VILLAGE OF ROUND LAKE PARK,)	
ROUND LAKE PARK VILLAGE BOARD)	
And GROOT INDUSTRIES, INC.)	
)	
Respondents.)	

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

Please take notice that on February 26, 2014 the undersigned caused to be filed electronically with the clerk of the Illinois Pollution Control Board **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S OBJECTIONS AND MOTION TO STRIKE PETITIONER'S AND RESPONDENT GROOT INDUSTRIES' DISCOVERY REQUESTS**, a copy of which is attached hereto.

Respectfully Submitted,

On behalf of Round Lake Park Village Board

Peter S. Karlovics

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AFFIDAVIT OF SERVICE

The undersigned certifies that on February 26, 2014 a copy of the foregoing **Notice of Filing** and RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S OBJECTIONS AND MOTION TO STRIKE PETITIONER'S AND RESPONDENT GROOT INDUSTRIES' DISCOVERY REQUESTS was served upon the following:

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TIMBER CREEK HOMES, INC.,)	
)	
Petitioner)	
V.)	
)	No. PCB 2014-099
VILLAGE OF ROUND LAKE PARK,)	
ROUND LAKE PARK VILLAGE BOARD)	(Pollution Control Facility Siting Appeal)
and GROOT INDUSTRIES, INC.)	
)	
Respondents)	

**RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S
OBJECTIONS AND MOTION TO STRIKE
PETITIONER'S AND RESPONDENT GROOT INDUSTRIES'
DISCOVERY REQUESTS**

Now comes the Respondent, Round Lake Park Village Board, by its attorneys, the Law Offices of Rudolph F. Magna, and hereby submits its Objections and Motion to Strike PETITIONER'S FIRST SET OF INTERROGATORIES TO THE VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD ("TCH's Interrogatories"), PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS FROM VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD ("TCH's Request for Production"), GROOT INDUSTRIES, INC'S FIRST INTERROGATORIES TO RESPONDENT ROUND LAKE PARK VILLAGE BOARD ("Groot Interrogatories") and GROOT INDUSTRIES, INC'S FIRST REQUEST FOR PRODUCTION TO RESPONDENT ROUND LAKE PARK VILLAGE BOARD ("Groot Request to Produce").

I. TCH Interrogatories and TCH Request for Production

Respondent Round Lake Park Village Board objects to each of the requests contained within TCH's Interrogatories and TCH's Request for Production.

35 Ill. Admin Code Section 101.616 provides in pertinent part:

"...a) All *relevant information* and *information calculated to lead to relevant information* is discoverable, *excluding those materials that would be protected from disclosure* in the courts of this State pursuant to statute, Supreme Court Rules or common law, and materials protected from disclosure under 35 Ill. Adm. Code 130..."(*bold italic* supplied)

TCH's Interrogatories and TCH's Request for Production are overbroad and seek information that is not "relevant information" or "information calculated to lead to relevant information" and seeks information that "would be protected from disclosure in the courts of this State."

415 ILCS 5/40.1 provides in pertinent part:

"...(b) If the county board or the governing body of the municipality as determined by paragraph (c) of Section 39 of this Act, grants approval under Section 39.2 of this Act, a third party other than the applicant who participated in the public hearing conducted by the county board or governing body of the municipality may, within 35 days after the date on which the local siting authority granted siting approval, petition the Board for a hearing to contest the approval of the county board or the governing body of the municipality. Unless the Board determines that such petition is duplicative or frivolous, or that the petitioner is so located as to not be affected by the proposed facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section and its procedural rules governing denial appeals, *such hearing to be based exclusively on the record before county board or the governing body of the municipality*. The burden of proof shall be on the petitioner. The county board or the governing body of the municipality and the applicant shall be named as co-respondents..." (*bold italic* supplied)

TCH forfeited its claim to raising the fundamental fairness issue because it did not specifically raise it in the local siting hearing. TCH must be restricted to a review of the record before the governing body of the municipality. TCH's Interrogatories and TCH's Request for

Production should be stricken because it seeks information that is not relevant to the record of the proceeding of before the Round Lake Park Village Board.

Should the PCB grant discovery to TCH, the PCB should narrow the scope of such discovery to the issue of fundamental fairness, and to the proceedings before the Village Board at the local siting hearing. No other matter is relevant to the review of the Village approval of the proposed waste transfer station. Further, TCH should not be entitled to any discovery regarding information protected by attorney-client privilege.

TCH's Interrogatories and TCH's Request for Production request information that goes beyond the Round Lake Park Village Board's consideration of the proposed waste transfer station. Any information pertaining to the Village Board's consideration of zoning relief and other approvals for Groot's Office and Contractor Equipment and Storage Yard and to the Village Board's consideration of zoning relief and other approvals for the proposed Construction and Demolition Facility are not relevant to the consideration of the Village Board of the proposed waste transfer station. As such, TCH's Interrogatories and TCH's Request for Production should be restricted to information related to the proposed waste transfer station, and should be further restricted to the time period between the filing of the application for local siting approval and the final decision of the Village Board.

Further, TCH's Interrogatories and TCH's Request for Production is overbroad and unduly burdensome, and is unlikely to lead to the production of admissible evidence. The time period and number of documents sought, and the request for information regarding thousands of conversations that are unrelated to the consideration of the proposed waste transfer station is oppressive and burdensome, and at a minimum, should be restricted.

II. Groot Interrogatories and Groot Request for Production

Round Lake Park Village Board adopts its arguments regarding TCH's Interrogatories and TCH's Request for Production for its objection and motion to strike Groot's Interrogatories and Groot's Request for Production. Groot requests are overbroad and unduly burdensome, and is unlikely to lead to the production of admissible evidence. The time period and number of documents sought, and the request for information regarding thousands of conversations that are unrelated to the consideration of the proposed waste transfer station is oppressive and burdensome, and at a minimum, should be restricted.

WHEREFORE, Respondent, Round Lake Park Village Board, respectfully requests that the Pollution Control Board enter an order striking the above Requests to Produce and Interrogatories, or in the alternative, limit such requests and interrogatories so as not to include privileged information pertaining to attorney client privilege and limit the requests so as not to include any information outside of the Village Board's consideration of Groot's Application for Local Siting Approval for the Lake Transfer Station, and grant Respondent, Round Lake Park Village Board, such further and other relief as this Board deems just and proper.

Respectfully Submitted,
Village Board of Round Lake Park,
Respondent

By: *Peter S. Karlovics*
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