

# EidenLaw

Mark C. Eiden & Associates, PC  
611 S. Milwaukee Ave., Suite 4  
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Phone. 224 - 513 - 5500

 ORIGINAL

Date: June 19, 2014  
Via: First Class Mail  
Our File No.: 13-1023

fax: 224 - 513 - 5501  
email: meiden@eidenlaw.com  
web: www.eidenlaw.com

John T. Therrialt, Clerk  
Illinois Pollution Control  
Board  
100 W. Randolph  
Suite 11-500  
Chicago, IL 60601

RECEIVED  
CLERK'S OFFICE  
JUN 20 2014  
STATE OF ILLINOIS  
Pollution Control Board

Re: ASCEND R.L.B., and Illinois corporation v. ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY and JOHN AND VIERA TIERNEY, PCB 14-122

Dear Mr. Therrialt,

Enclosed please find an original and one copy of Second REPLY TO AGENCY  
RESPONSE TO THE PETITION FOR WATER WELL SET BACK EXCEPTION,  
CERTIFICATE OF SERVICE and NOTICE OF FILING. Please place this in the above  
captioned case.

Very truly yours,  
Mark C. Eiden & Associates, PC.

  
Mark C. Eiden

Enclosure

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

Ascend R.L.B., Inc., an Illinois corporation, )  
 )  
 Petitioner )  
 )  
 v. )  
 )  
 Illinois Environmental Protection Agency, )  
 John Tierney and Vera Tierney, )  
 )  
 Respondents )

PCB: PCB 14-122

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Pollution Control Board

**SECOND REPLY TO AGENCY RESPONSE TO THE PETITION FOR  
WATER WELL SET BACK EXCEPTION**

Ascend R.L.B., Inc. ("Ascend"), as Petitioner to the Illinois Environmental Protection Agency Water Pollution Control Board ("Agency") hereby further replies to the "Agency Response to the Petition for Water Well Set Back Exception" made by the Agency dated April 17, 2014 ("Response"). The Response relates to Petitioner's Petition for Set Back Exception filed on March 25, 2014 ("Petition"). The purpose of the Petition is to request an exception to the setback requirement in 415 ILCS 5/14.2(a) requiring a minimum 200 foot separation between a new potential route (as defined in said section) and a potable water system, pursuant to the requirements of 415 ILCS 5/14.2(c).

The Agency Response sought additional information to support the Petition. Ascend supplied the additional information in its Reply to Agency Response filed on or about May 13, 2014 ("Reply"). This Second Reply to Agency Response supplements information contained in the Reply.

Capitalized terms herein will have the same meaning ascribed to them in the Petition, unless otherwise defined herein.

**ADDITIONAL RESPONSE TO SECTION 11**

The Agency requested facts demonstrating that the 500 gallon per day system is the appropriate size for the planned development on the property. Ascend hereby files this Second Reply to present a letter from Tom Copenhaver, Environmental Health Program Coordinator, Lake County Illinois Health Department to Ascend's engineers,

confirming that the proposed 500 gallon per day Septic System is the appropriate size. It is the Health Department that issues the permit to build the Septic System.

Respectfully Submitted,

Ascend R.L.B., Inc.

By: \_\_\_\_\_

Mark C. Eiden, its attorney

Dated: June 19, 2014

Mark C. Eiden  
Mark C. Eiden & Associates, PC  
611 S. Milwaukee Ave.  
Suite 4  
Libertyville, IL 60048  
ARDC number 3126068

This Reply is filed on "Recycled Paper"

**EXHIBIT A**

Letter from Health Department



June 9, 2014

Health Department and  
Community Health Center

Tony Beltran, MBA  
Executive Director

Population Health Services  
500 W. Winchester Rd., Suite 102  
Libertyville, Illinois 60048  
Phone: 847-377-8020  
Fax: 847-984-5622

Pearson, Brown & Associates, Inc.  
Donald S. Henne  
1850 W. Winchester Rd., Suite 205  
Libertyville, IL 60048-6707

Re: Property Located at 36650 N., 36660 N. and 36674 N. Bernice Drive, Lake Villa, IL  
Project #4669  
Septic System Plan dated June 3, 2014

Mr. Henne:

The referenced plan depicts a septic system design that is designed to receive and treat 500 gallons per day. The sources of the projected wastewater are noted on the plan and states flow from 9 employees and 175 customers per day and is understood to represent the flow from the entire building regardless of the number of individual units in the building. These flow projections are intended to represent peak daily flows. Washrooms are not intended for use by the public.

Flow projections for wastewater generating uses for the design of septic systems are listed in Lake County Board of Health Ordinance, Article V, Table C.1. For your reference, the ordinance can be found at <http://health.lakecountyil.gov/Population/EnvironmentalServices/Pages/Individual%20Sewage%20Disposal.aspx>

Should the use of the building change at any time, this change of use will have to be reviewed for compliance with the aforementioned ordinance with respect to the projected daily wastewater flow and found to be compliant with the septic system design before the change of use will be approved. The type of use allowed in the building would have to comply with Lake County Unified Development Ordinance.

If you have any questions, please feel free to contact me at 847-984-5008 or [tcopenhaver@lakecountyil.gov](mailto:tcopenhaver@lakecountyil.gov)

Sincerely,

Tom Copenhaver, LEHP, CPSS  
Environmental Health Program Coordinator

## Service List

### Petitioner:

Mukesh R Patel  
4140 Sunset Lane  
Northbrook, IL 60062

Petitioner's attorney

Mark C. Eiden  
Mark C. Eiden & Associates, PC  
611 S. Milwaukee Ave  
Suite 4  
Libertyville, IL 60048

### Respondents

John T. Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, IL 60601

Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 W. Randolph  
Chicago, IL 60601

John Tierney  
36701 N. Highway 83  
Lake Villa, IL 60046

Stephanie Flowers  
Assistant Counsel  
Division of Legal Counsel  
1021 North Grand Avenue East  
PO Box 19276  
Springfield, IL 62794-9276

Vera Tierney  
36701 N. Highway 83  
Lake Villa, IL 60046

Christopher W. Cramer  
Erickson Papanek Peterson Rose  
1625 Shermer Road  
Northbrook, IL 60062

RECEIVED  
CLERK'S OFFICE

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STATE OF ILLINOIS  
Pollution Control Board

### CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Reply to Agency Response to the Petition for Water Well Set Back Exception by US Mail and Certified Mail return receipt requested, upon the following persons:

John T. Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, IL 60601

Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
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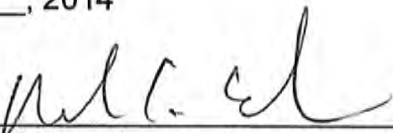
John Tierney  
36701 N. Highway 83  
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Stephanie Flowers  
Assistant Counsel  
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36701 N. Highway 83  
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Christopher W. Cramer  
Erickson Papanek Peterson Rose  
1625 Shermer Road  
Northbrook, IL 60062

June 19, 2014



Mark C. Eiden, attorney licensed in the state of Illinois  
ARDC number 3126068

ILLINOIS POLLUTION CONTROL BOARD  
June 11, 2014

ASCEND R.L.B., an Illinois corporation, )  
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 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL ) PCB 14-122  
 PROTECTION AGENCY and JOHN ) (Water Well Setback Exception)  
 AND VERA TIERNEY, )  
 )  
 Respondents. )

**NOTICE OF FILING**

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Suite 11-500  
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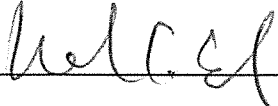
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Erickson Papanek Peterson Rose  
1625 Shermer Road  
Northbrook, IL 60062

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a SECOND REPLY TO AGENCY RESPONSE TO THE PETITION FOR WATER WELL SET BACK EXCEPTION in the above captioned cause and copies of which are herewith served upon you.



By:   
Mark C. Eiden, Attorney

Dated: June 19, 2014  
Mark C. Eiden & Associates, P.C.  
611 S. Milwaukee Ave., Suite 4  
Libertyville, IL 60048  
224-513-5500(phone)  
224-513-5501 (fax)  
ARDC# 3126068