

ILLINOIS POLLUTION CONTROL BOARD  
May 12, 2014

RECEIVED  
CLERK'S OFFICE

MAY 14 2014

STATE OF ILLINOIS  
Pollution Control Board



ORIGINAL

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

**NOTICE OF FILING**

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

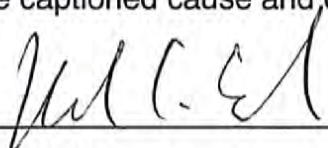
Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, IL 60601

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

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a 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: May 13, 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

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**RECEIVED**  
CLERK'S OFFICE

**MAY 14 2014**

STATE OF 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

**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 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 seeks additional information, which is itemized below. Capitalized terms herein will have the same meaning ascribed to them in the Petition, unless otherwise defined herein.

**RESPONSE TO SECTION 7**

- a. the additional cost of extending a sewer line to the property relative to the cost of the development as proposed.

Round Lake Beach would require many additional improvements to allow extension of its sewer main to the Subject Property. To make a proper comparison of relative costs of public sanitary service versus construction of an onsite septic system, it is necessary to compare the cost of onsite and offsite improvements required by Round Lake Beach versus the costs if the Subject

Property is developed and remains in the County. The comparison attached as Exhibit A shows the relative costs. The result is that the Round Lake Beach option is \$642,200, and the County option with the Septic System is \$387,500. The cost of the building shell for the commercial center is \$495,600 before tenant improvements. The Round Lake Beach option is twice as costly and significantly out of proportion to the cost of the commercial building.

Equally burdensome is the loss in value to the Subject Property by utilizing the Round Lake Beach sewer mains. Ascend must annex the Subject Property to the Village as a condition to connect the sewer line.

The Subject Property is currently within the jurisdiction of Lake County, Illinois. County zoning permits uses on the Subject Property which are needed to make this small development (1.14 acres) feasible, such as a liquor store.

If the Subject Property is annexed to the Village, these uses would not be allowed. The consequent loss in value and revenue is compounded by the cost to extend the sewer main. Therefore, Ascend cannot successfully develop the Subject Property unless the Subject Property remains in the County and the setback variation is granted.

- b. comparison of the economic benefit the petitioner will realize if the property is developed as a commercial property instead of residential properties.

Exhibit B shows the 3 parcels comprising the Subject Property. They are similar to the residential parcels to the east. The residential improvements on such lots often straddle lot lines so it is likely that only one residence would fit on the Subject Property (maybe 3) especially since it would be a corner lot and require more road frontage setbacks. Exhibit C shows valuation information for the residences in this area. The fair market value (not the assessed value) of the typical residence shown is \$88,563, which is comprised of 2 lots. It is not hard to see that a commercial center with a convenience store having a liquor license would be far more valuable. The improvement costs alone are at least 8 times more than the value of the residence.

- c. the basis for a reasonable expectation that the property could be developed as a commercial site.

The Subject Property is already zoned "GC General Commercial" under the Lake County Illinois Unified Development Ordinance. The likelihood of down zoning of Subject Property to a residential use is remote, at best, since the Lake County Regional Land Use Plan depicts the Subject Property as Retail/Commercial. This is the planning document that projects land uses for the future, and is attached as Exhibit D.

## **RESPONSE TO SECTION 9**

- d. Whether the condition being described applies only to "conventional" systems, presumably meaning anaerobic systems, or if this statement also applies to the aerobic system being installed.

The word "conventional" is meant to be "anaerobic". With aerobic treatment, bacteria are constantly broken down so that during high flows, wastewater has been largely separated from sludge, unlike anaerobic wastewater which is not well separated when it flows out of the tank. The point was to demonstrate that the Septic System is the best technology and is state of the art, which exceeds the benefits of the "conventional" mound systems.

## **RESPONSE TO SECTION 11**

- e. Facts demonstrating that the 500 gallon per day system is the appropriate size for the planned development on the property.

Ascend's licensed septic system designer recommended a system of 500 gpd. The matter was reviewed with the Lake County Health Department, and they concurred. The design volume takes into consideration the following factors.

1. A 5 employee convenience center
2. Two office suites (such as real estate and accounting offices) with 2 employees each.
3. A volume of 15 gpd was assumed for each employee. For 9 employees this is 135 gpd.
4. A volume of 1.5 gpd was assumed for each of 200 customers (each flush is 1.5 gallons). This is 300 gpd. This is generous since not each customer will use the bathroom.

This totals 435 gpd. The standard sizes in this range are 300 gpd and 500 gpd.

More intense uses are not possible since:

Parking would not allow higher volume tenants and future uses would be limited by the Septic System. Lake County would not issue a building permit to a large volume tenant that is limited by parking sanitary sewer limitations. This is acceptable to Ascend since the nature of the commercial center lends itself to the kind of uses proposed.

## **RESPONSE TO SECTION 12**

f. Petitioner agrees to arrange to pay an experienced third party, in coordination with the Lake County Health Department, to sample the Tierney well for bacteria and nitrate prior to operating Petitioner's proposed septic system, provided the Tierneys are willing to grant the third party access to their well.

Therefore, Ascend requests an exception to the setback requirements of 415 ILCS 5/14.2(a) between the Septic System and the Tierney Well pursuant to the requirements of 415 ILCS 5/14.2(c) for the reason that the setback applied in this situation would be an arbitrary and unreasonable hardship for the additional reasons stated above..

Signature Page Follows

Respectfully Submitted,

Ascend R.L.B., Inc

By: 

Mark C. Eiden, its attorney

Dated: May 13, 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**  
**Cost Comparison**



5/5/14

Mae's Job

chincosp.

Sanitary "Septic"  
 Value "Val"  
 \* Stern  
 \* Grading  
 \* Erosion  
 \* PAVING C&S  
 PAVING ASPH  
 PAVEMENT MARKING  
 \* Landscaping

\$5,000  
 \$6,000  
 220,000  
 \$18,000  
 \$8,000  
 \$96,000  
 \$11,000  
 \$6,000  
 \$17,500

TOTAL = \$387,500

RLB

Sanitary Sewer

Water Main

Stern

Grading

Erosion

PAVING C&S

PAVING ASPH

PAVEMENT MARKING

Pedestrian Signal #03

Street Lights, ASPH

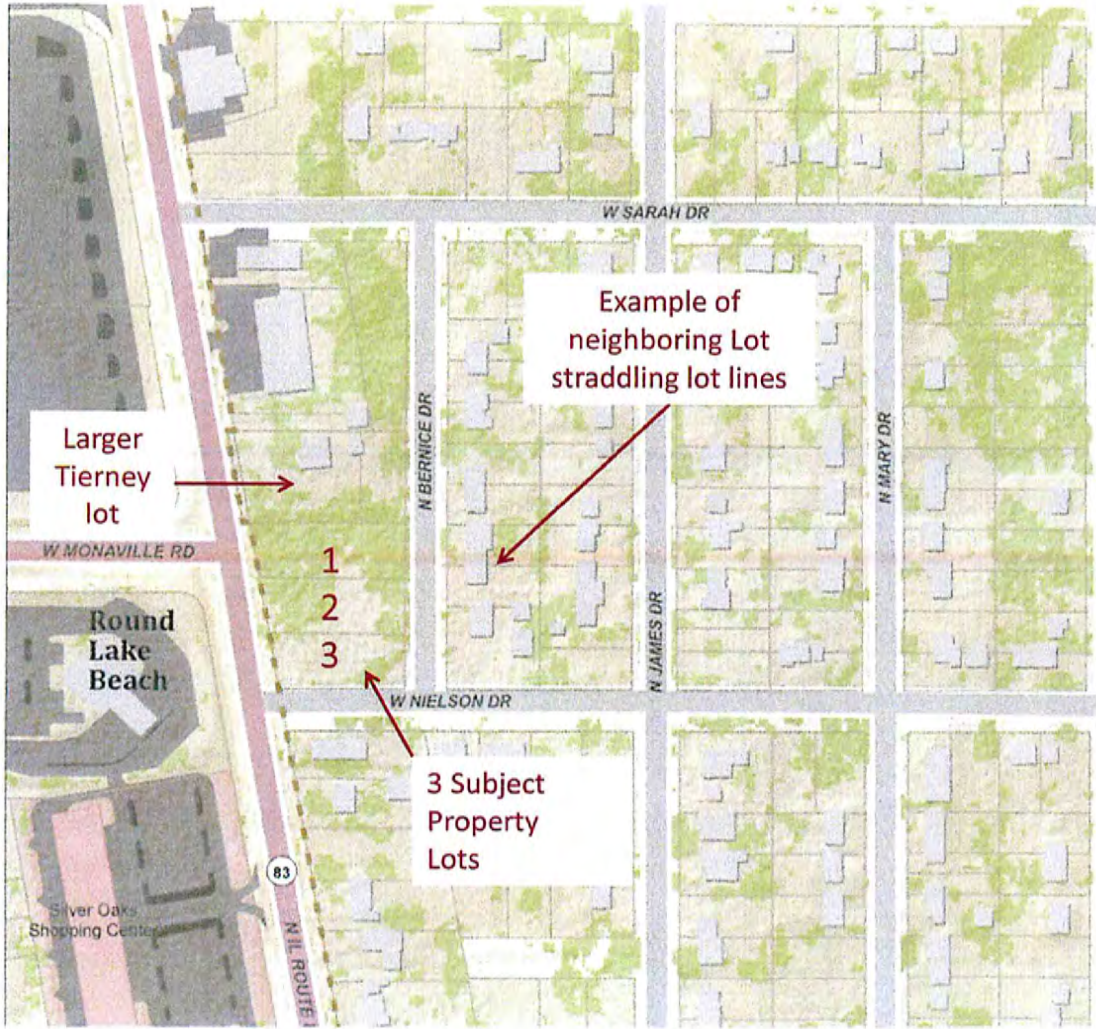
~~\$250,000~~ \$160,000  
 \$75,000  
 \$220,000  
 \$18,000  
 \$8,000  
 \$96,000  
 \$21,200  
 \$8,000  
 \$16,000  
 \$20,000

TOTAL = \$642,200

Bldg Shell

\$495,600

**EXHIBIT B**  
**Neighboring Lots**



**EXHIBIT C**

**Typical Neighboring Valuation**

# Lake County, Illinois



**LakeCounty**  
Geographic Information System

Lake County Department  
of Information Technology  
18 N County St  
Waukegan IL 60085  
(847) 377-2373

Map Printed on 05/12/2014

- Lake County Border
- Water
- Municipalities
- Tax Parcels
- Tax Parcels
- Trails
- 2011 Buildings

**Disclaimer** The selected soil feature layer may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

# Property Tax Assessment Information by PIN

Enter the 10 to 14 digit Property Index Number (PIN)  
with or without dashes for the property

06-10-115-007

[View Board of Review Appeal Schedule and Assessor Evidence](#)

 [Print Version](#)

### Property Address

Pin: 06-10-115-007  
 Street Address: 36707 N JAMES DR  
 City: LAKE VILLA  
 Zip Code: 60046  
 Land Amount: \$3,143  
 Building Amount: \$23,235  
 Total Amount: \$26,378  
 Township: Lake Villa  
 Assessment Date: 2013

### Property Characteristics

Neighborhood Number: 9530121  
 Neighborhood Name: VENETIAN VILLAGE  
 1 STY  
 Property Class: 104  
 Class Description: Residential Improved  
 Total Land Square Footage: 16200  
 House Type Code: 11  
 Structure Type / Stories: 1.0  
 Exterior Cover: Wood siding  
 Multiple Buildings (Y/N): N  
 Year Built / Effective Age: 1954 / 1954  
 Condition: Average  
 Quality Grade: Avg  
 Above Ground Living Area (Square Feet): 1088  
 Lower Level Area (Square Feet):  
 Finished Lower Level (Square Feet):  
 Basement Area (Square Feet): 0  
 Finished Basement Area (Square Feet): 0  
 Number of Full Bathrooms: 1  
 Number of Half Bathrooms: 0  
 Fireplaces: 0  
 Garage Attached / Detached / Carport: 0 / 0 / 0  
 Garage Attached / Detached / Carport Area: 0 / 0 / 0  
 Deck / Patios: 0 / 0  
 Deck / Patios Area: 0 / 0  
 Porches Open / Enclosed: 0 / 0  
 Porches Open / Enclosed Area: 0 / 0  
 Pool: 0



[Click here for a Glossary of these terms.](#)

 [Print This Page](#)



**1st INSTALLMENT  
PAYMENT COUPON**

**1**

**Tax Year 2013**  
PIN: 06-10-115-007

ROBERT SKIDMORE  
LAKE COUNTY COLLECTOR

**M & T MORTGAGE CORPORATION**  
**COMMITTED TO PAY TAXES**

**\*0610115007\***

**Pin 06-10-115-007**

**Postmarked on or before 6/5/2014**

TED H & CATHERINE M DOFELMIRE  
36707 N JAMES DR  
LAKE VILLA, IL 60046-9441

**\$1,294.61 DUE**

Your cancelled check is your receipt

PAYABLE TO LAKE COUNTY COLLECTOR  
061011500700000000129461201317



**2nd INSTALLMENT  
PAYMENT COUPON**

**2**

**Tax Year 2013**  
PIN: 06-10-115-007

ROBERT SKIDMORE  
LAKE COUNTY COLLECTOR

**M & T MORTGAGE CORPORATION**  
**COMMITTED TO PAY TAXES**

**\*0610115007\***

**Pin 06-10-115-007**

**Postmarked on or before 9/5/2014**

TED H & CATHERINE M DOFELMIRE  
36707 N JAMES DR  
LAKE VILLA, IL 60046-9441

**\$1,294.62 DUE**

Your cancelled check is your receipt

PAYABLE TO LAKE COUNTY COLLECTOR  
061011500700000000129462201328

<b>Property Location:</b> 36707 N JAMES DR LAKE VILLA	<b>Tax Year</b> 2013	<b>Pin Number</b> 06-10-115-007	<b>Tax Code</b> 05014	<b>Acres</b> 0
--	-------------------------	------------------------------------	-----------------------	----------------

**Legal Description:** VENETIAN VILLAGE UNIT NO. 9  
LOT 6 BLOCK 108

<u>Taxing Body</u>	<u>Rate</u>		
COUNTY OF LAKE	0.535	Land Value	\$3,143
COUNTY OF LAKE PENSION	0.128	+ Building Value	\$23,235
ROAD AND BRIDGE-LAKE VILLA	0.046	x State Multiplier	1.0000
ROAD AND BRIDGE-LAKE VILLA PENSION	0.016	= Equalized Value	\$26,378
LAKE VILLA TOWNSHIP FIRE PROT DIST	0.779	+ Farm Land and Bldg Value	
LAKE VILLA TOWNSHIP FIRE PROT DIST PENSION	0.001	+ State Assessed Pollution Ctrl.	
LAKE VILLA PUBLIC LIBRARY DIST	0.539	+ State Assessed Railroads	
LAKE VILLA PUBLIC LIBRARY DIST PENSION	0.051	= Total Assessed Value	\$26,378
LAKE VILLA SCHOOL DISTRICT #41	4.309	- Fully Exempt	
LAKE VILLA SCHOOL DISTRICT #41 PENSION	0.107	- Senior Freeze	
COLLEGE OF LAKE COUNTY #532	0.296	- Home Improvement	
GRAYSLAKE COMM HIGH SCHOOL DIST #127	5.137	- Limited Homestead	\$6,000
GRAYSLAKE COMM HIGH SCHOOL DIST #127 PENSION	0.091	- Senior Homestead	
SPECIAL ROAD IMPROVEMENT LAKE VILLA GRAVEL	0.250	- Veterans/Disabled	
FOREST PRESERVE	0.205	- Returning Veteran	
FOREST PRESERVE PENSION	0.013	= Taxable Valuation	\$20,378
TOWNSHIP OF LAKE VILLA	0.184	x Tax Rate	12.706
TOWNSHIP OF LAKE VILLA PENSION	0.019	= Real Estate Tax	\$2,589.23


5/12/2014

Treasurer's Bill: Lake County, IL

**Totals**

12.706	+ Special Assessment		
	+ Drainage		
	= Total Current Year Tax		\$2,589.23
	+ Omitted Tax		
	+ Forfeited Tax		
	= Total Tax Billed		\$2,589.23
	+ Interest Due as of	5/10/2014	
	+ Cost		
	= AMOUNT BILLED		\$2,589.23
	Fair Market Value		\$79,134
	1st Installment Due	6/5/2014	\$1,294.61
	2nd Installment Due	9/5/2014	\$1,294.62



 [Print This Page](#)



**1st INSTALLMENT  
PAYMENT COUPON**

**1**

**Tax Year 2013**  
PIN: 06-10-115-006

ROBERT SKIDMORE  
LAKE COUNTY COLLECTOR

**M & T MORTGAGE CORPORATION**  
**COMMITTED TO PAY TAXES**

**\*0610115006\***

**Pin 06-10-115-006**

**Postmarked on or before 6/5/2014**

TED H & CATHERINE M DOFELMIRE  
36707 N JAMES DR  
LAKE VILLA, IL 60046-9441

**\$199.67 DUE**

Your cancelled check is your receipt

PAYABLE TO LAKE COUNTY COLLECTOR  
061011500600000000019967201313



**2nd INSTALLMENT  
PAYMENT COUPON**

**2**

**Tax Year 2013**  
PIN: 06-10-115-006

ROBERT SKIDMORE  
LAKE COUNTY COLLECTOR

**M & T MORTGAGE CORPORATION**  
**COMMITTED TO PAY TAXES**

**\*0610115006\***

**Pin 06-10-115-006**

**Postmarked on or before 9/5/2014**

TED H & CATHERINE M DOFELMIRE  
36707 N JAMES DR  
LAKE VILLA, IL 60046-9441

**\$199.68 DUE**

Your cancelled check is your receipt

PAYABLE TO LAKE COUNTY COLLECTOR  
061011500600000000019968201324

<b>Property Location:</b> 36713 N JAMES DR LAKE VILLA	<b>Tax Year</b> 2013	<b>Pin Number</b> 06-10-115-006	<b>Tax Code</b> Acres 05014 0
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**Legal Description:** VENETIAN VILLAGE UNIT NO. 9  
LOT 7 BLOCK 108

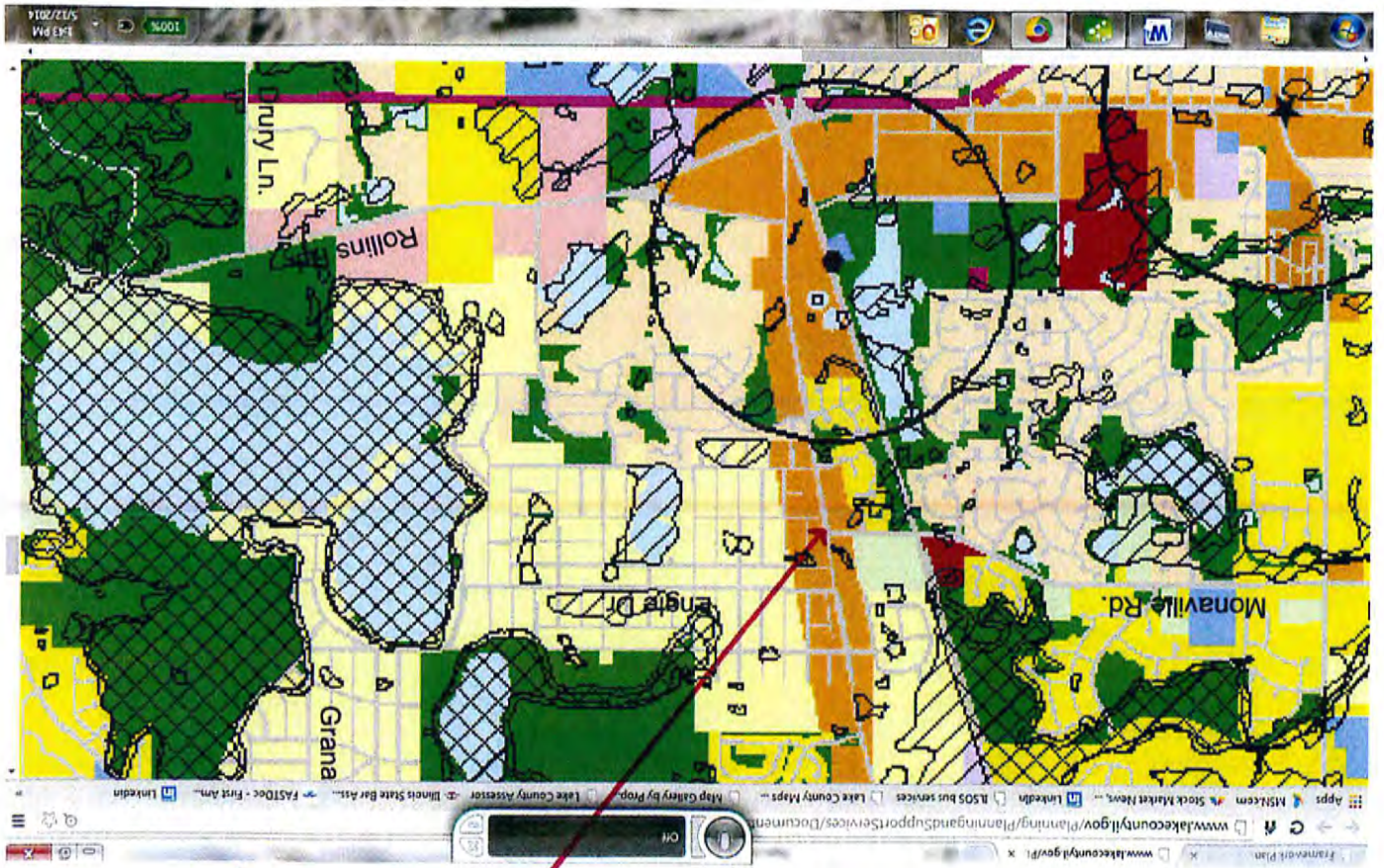
<u>Taxing Body</u>	<u>Rate</u>		
COUNTY OF LAKE	0.535	Land Value	\$3,143
COUNTY OF LAKE PENSION	0.128	+ Building Value	
ROAD AND BRIDGE-LAKE VILLA	0.046	x State Multiplier	1.0000
ROAD AND BRIDGE-LAKE VILLA PENSION	0.016	= Equalized Value	\$3,143
LAKE VILLA TOWNSHIP FIRE PROT DIST	0.779	+ Farm Land and Bldg Value	
LAKE VILLA TOWNSHIP FIRE PROT DIST PENSION	0.001	+ State Assessed Pollution Ctrl.	
LAKE VILLA PUBLIC LIBRARY DIST	0.539	+ State Assessed Railroads	
LAKE VILLA PUBLIC LIBRARY DIST PENSION	0.051	= Total Assessed Value	\$3,143
LAKE VILLA SCHOOL DISTRICT #41	4.309	- Fully Exempt	
LAKE VILLA SCHOOL DISTRICT #41 PENSION	0.107	- Senior Freeze	
COLLEGE OF LAKE COUNTY #532	0.296	- Home Improvement	
GRAYSLAKE COMM HIGH SCHOOL DIST #127	5.137	- Limited Homestead	
GRAYSLAKE COMM HIGH SCHOOL DIST #127 PENSION	0.091	- Senior Homestead	
SPECIAL ROAD IMPROVEMENT LAKE VILLA GRAVEL	0.250	- Veterans/Disabled	
FOREST PRESERVE	0.205		
FOREST PRESERVE PENSION	0.013	- Returning Veteran	
TOWNSHIP OF LAKE VILLA	0.184	= Taxable Valuation	\$3,143
TOWNSHIP OF LAKE VILLA PENSION	0.019	x Tax Rate	12.706
		= Real Estate Tax	\$399.35
<b>Totals</b>	<b>12.706</b>		

## Treasurer's Bill: Lake County, IL

+ Special Assessment		
+ Drainage		
= <b>Total Current Year Tax</b>		\$399.35
+ Omitted Tax		
+ Forfeited Tax		
= <b>Total Tax Billed</b>		\$399.35
+ Interest Due as of	5/10/2014	
+ Cost		
= AMOUNT BILLED		\$399.35
<u>Fair Market Value</u>		<u>\$9,429</u>
1st Installment Due	6/5/2014	\$199.67
2nd Installment Due	9/5/2014	\$199.68

**EXHIBIT D**

**County Future Land Use Plan**



**SUBJECT  
PROPERTY**

Legend

Framework Plan x www.lakecountyil.gov/F... x  
www.lakecountyil.gov/Planning/PlanningandSupportServices/Documents  
MSL.com Stock Market News... LinkedIn BLSOS bus services Lake County Maps... Lake County Assessor Illinois State Bar Ass... FASTDoc - First Am... LinkedIn

<b>Employment</b>	<b>Other</b>
Government/Institutional	Public/Private Open Space
Industrial	Utility/Waste Facilities
Office/Research	Transportation
Mixed Use	Agricultural
Retail/Commercial	Water
Gateway Economic Development Area	Severe Environmental Limitations
	Moderate Environmental Limitations
	Multimodal Transportation Hubs
	Proposed Metra Stop
	Existing Metra Stop
	2000 Employment Center
	Transit/Employment Center (1/2 mile radius)
	Central Lake Thruway Corridor

<b>Residential</b>
Residential Single-family Large Lot (>3-acre lot density)
Residential Single-family Medium Lot (1 to 3-acre lot density)
Residential Single-family Residential (0.25 to 1-acre lot density)
Residential Single-family Small Lot (<0.25-acre lot density)
Residential Multifamily



F

0

100% 1:55 PM 5/12/2014

## 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  
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36701 N. Highway 83  
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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

## EidenLaw

Mark C. Eiden & Associates, PC  
611 S. Milwaukee Ave., Suite 4  
Libertyville, IL 60048  
Phone. 224 - 513 - 5500

RECEIVED  
CLERK'S OFFICE

MAY 14 2014

STATE OF ILLINOIS  
Pollution Control Board

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

fax: 224 - 513 - 5501  
email: [meiden@eidenlaw.com](mailto:meiden@eidenlaw.com)  
web: [www.eidenlaw.com](http://www.eidenlaw.com)

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

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 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