

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

MOTION TO QUASH SUBPOENA FOR DEPOSITION OF DERKE J. PRICE

NOW COMES Respondent, GROOT INDUSTRIES, INC., by and through their attorneys, HINSHAW & CULBERTSON LLP, and in support of their Motion to Quash Subpoena for Deposition of Derke J. Price, states as follows:

1. On April 9, 2014 Respondent, Round Lake Park Village Board, filed a Motion to Quash Deposition of Derke J. Price.
2. Respondent, Groot Industries, Inc., hereby adopts as though stated verbatim herein the entire motion of Respondent, Round Lake Park Village Board.
3. In addition, that Motion to Quash should be granted because the Subpoena for Deposition violates the discovery order issued by the Hearing Officer on March 20, 2014 and affirmed by the Pollution Control Board on April 3, 2014.
4. Specifically, on March 20, 2014 Hearing Officer Bradley Halloran issued the attached Order wherein he ruled that “I find the time frame for all discovery requests, including pre-filing, is from the date Mr. Kleszynski was retained by the Village to December 12, 2013, the date Groot was granted siting.” (March 20, 2014 Order, page 5). The PCB unanimously affirmed the Hearing Officer Order on April 3, 2014 and held that “The Board finds the Hearing

Officer correctly limited the scope of discovery on the March 20, 2014 Hearing Officer Order and sustains the Hearing Officer's decision." (April 3, 2014 IPCB Order)

5. The Subpoena for Deposition of Derke J. Price explicitly seeks "all documents relating to or reflecting all meetings or communications between Derke J. Price and anyone acting or purporting to act on behalf on the Village of Round Lake Park ("VRLP"), including all VRLP's present and former agents, employees, appointed officials, elected officials, attorneys, and relating proposed Groot Industries ("Groot") Lake Transfer Station (the "Transfer Station")". That Subpoena for Deposition goes on to demand all documents relating to all meetings or communications between Derke Price and anyone on behalf of Groot, the Chicago Bridge and Iron Company and the Shaw Group related to the Transfer Station. This Subpoena for Deposition does not limit the discovery in any way to communications which occurred after Mr. Kleszynski was hired on June 20, 2013 by the Village of Round Lake Park and therefore violates the Hearing Officer Order.

6. The Hearing Officer issued another Order on April 7, 2014 interpreting his prior Order¹. That April 7, 2014 Order interpreted a sentence in the April 3, 2014 IPCB Order to provide that "TCH may pursue discovery regarding entries reflected in the Village Board's minutes as was the subject of TCH's Request to Admit as those documents were provided or gained during the course of discovery." (April 7, 2014 Hearing Officer Order, page 2). The Subpoena for Deposition of Derke Price does not in any way reference any document referred to in the meeting minutes which were involved in the Request to Admit issued by Timber Creek

¹ Groot has sought expedited review of the April 7, 2014 Hearing Officer Order and Groot preserves and does not waive any of the arguments raised in that expedited Petition for Review. Nonetheless, for the purpose of this Motion the deposition of Mr. Price should be quashed for violating both the April 3, 2014 IPCB and the April 7, 2014 Hearing Officer Order.

Homes, Inc. Timber Creek Homes has not even attempted to limit its discovery as directed by the Pollution Control Board or the Hearing Officer.

WHEREFORE, because TCH is seeking discovery beyond the scope of that allowed by the Hearing Officer and the Illinois Pollution Control Board and for the reasons stated in the Village's Motion, the deposition of Derke Price should be quashed.

Dated: April 8, 2014 Respectfully submitted,

On behalf of GROOT INDUSTRIES, INC.

/s/ Richard S. Porter

Richard S. Porter
One of Its Attorneys

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AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

The undersigned certifies that on **April 11, 2014**, a copy of the foregoing **Notice of Filing Groot Industries, Inc.'s Motion to Quash Subpoena for Deposition of Derke J. Price** was served upon the following:

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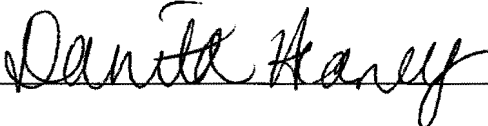
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