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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

April 7, 2014

TIMBER CREEK HOMES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 14-99
)	(Pollution Control Facility
VILLAGE OF ROUND LAKE PARK,)	Siting Appeal)
ROUND LAKE PARK VILLAGE BOARD)	
and GROOT INDUSTRIES, INC.,)	
)	
Respondents.)	

HEARING OFFICER ORDER

On April 3, 2014, all parties participated in a telephonic status conference with the hearing officer. Discussions centered on the April 3, 2014 Board order that addressed Timber Creek Homes, Inc. (TCH) expedited appeal of the hearing officer order of March 20, 2014 concerning limitations of discovery.

In the March 20, 2014 order, I ruled *inter alia*, that discovery is limited to the waste transfer station located at 201 Porter Drive in Round Lake Park, Lake County, and that the time frame for all discovery requests, including pre-filing, is from the date the appraiser Mr. Kleszynski was retained by the Village of Round Lake Park (Village) to December 12, 2013, the date Groot Industries, Inc. (Groot) was granted siting with conditions.¹ Order at 5.

On April 3, 2014, the Board denied TCH's motion for expedited appeal and affirmed the hearing officer's order. Timber Creek Homes, Inc. v. Village of Round Lake Park, Round Lake Village Board and Groot Industries, Inc., PCB 14-99, slip op. at 4 (April 3, 2014). The Board, however, stated "that TCH may continue discovery, as allowed by the hearing officer, concerning documents provided during discovery." *Id.* at 4.

Regarding the documents that have been provided during discovery thus far includes the documents TCH served on the Village and the Lake Park Village Board (Village Board), entitled Request to Admit Facts and Genuineness of Documents with attached exhibits of certain Village Board's meeting minutes dating back to April 15, 2008. On March 13, 2014, the Village Board responded admitting to each of TCH's Requests to Admit. On March 31, 2014, the Village responded and adopted the answers put forth by the Village Board.

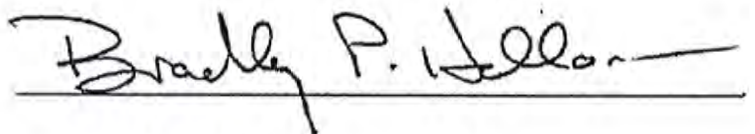
¹ TCH did not reference the Village Board's meeting minutes in its consolidated response to respondents' discovery objections and only first referenced them in its expedited appeal to the Board.

I interpret the Board's ruling that the parties may proceed with discovery that is the subject of TCH's Request to Admit. I therefore orally ruled during the telephonic status conference on April 3, 2014 that TCH may pursue discovery regarding entries reflected in the Village Board's minutes that was the subject of TCH's Request to Admit as those documents were provided or gained during the course of discovery. The discovery, however, must only pertain to the waste transfer station that is the subject of the above-captioned appeal. Further, any discovery request is limited to relevant information and information calculated to lead to relevant information, excluding any privileged information. The parties are cautioned that objections based on an alleged privilege must each be specifically asserted and each substantiated.

Procedural rules provide that the parties may seek Board review of discovery rulings pursuant to 35 Ill. Adm. Code 101.616 (e). The parties are reminded that the filing of any such appeal of a hearing officer order does not stay the proceeding. In statutory decision deadline cases, such as at bar, the hearing officer must manage the case to insure that discovery, hearing and briefing schedules allow for the Board deliberation and a timely decision of the case as a whole.

The parties or their legal representatives are directed to appear at a telephonic status conference with the hearing officer on April 9, 2014, at 1:30 p.m. The telephonic status conference must be initiated by the petitioner, but each party is nonetheless responsible for its own appearance. At the conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath.

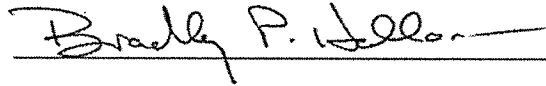
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on April 7, 2014, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on April 7, 2014:

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A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
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