

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 March 20, 2014 the undersigned caused to be filed electronically with the clerk of the Illinois Pollution Control Board **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S RESPONSE TO MOTION TO MAKE SPECIFIC**, a copy of which is attached hereto.

Respectfully Submitted,

On behalf of Round Lake Park Village Board

Peter S. Karlovics

Peter S. Karlovics #6204536
The Law Offices of Rudolph F. Magna #110560
495 N. Riverside Dr., Ste. 201
PO Box 705
Gurnee, IL 60031

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
RESPONSE TO MOTION TO MAKE SPECIFIC**

Now comes the Respondent, Round Lake Park Village Board ("RLPVB"), by its attorneys, the Law Offices of Rudolph F. Magna, and hereby submits its response to the MOTION TO MAKE SPECIFIC filed by Respondent Village of Round Lake Park ("VRLP").

RLPVB shares the concern of VRLP and Respondent Groot Industries, Inc. ("Groot") regarding the overbroad nature of Petitioner Timber Creek Homes, Inc.'s ("TCH") discovery requests. RLPVB does not object to providing discovery, provided the discovery request is limited to documents and information that is relevant to issues before the Pollution Control Board ("PCB") in this case.

In its Petition for Review, TCH did allege that the RLPVB's decision was against the weight of the evidence. Because this allegation will be adjudicated by a review of the record of the local siting hearing, this allegation does not present an issue for discovery or for the Respondents to prepare for a defense to the allegation.

The PCB has not yet ruled on whether TCH waived its right to raise fundamental fairness allegations in this case. RLPVB continues to take the position that TCH waived its right to allege lack of fundamental fairness, since TCH did not raise the issue at the local siting hearing, despite having numerous opportunities to do so.

However, should the PCB find that TCH did not waive its right to raise the issue of fundamental fairness on appeal, the PCB should consider an order requiring TCH to make its allegation of a lack of fundamental fairness more specific.

The problem in determining whether TCH's discovery requests are overbroad and improper proper are rooted in the vague conclusionary allegations contained in TCH's Petition for Review as to the existence of some type of bias on the part of the some part or all of the Village Board, and that the hearing officer made findings that were the responsibility of the Village Board.

Respondents continue to have no idea of the nature or scope of TCH's claim of bias or the lack of making proper findings. Specifically, RLPVB continues to be left in the dark as to what decisions the board members allegedly failed to make, how many or which of the board members were allegedly biased, the identity of the Village Board members that TCH believes are biased, what the nature of the bias might be, or what specific circumstance or occurrence in the course of the hearing that caused TCH to come to the conclusion of bias. Requiring a more specific allegation would not only assist Respondents in preparing for their defense, but would also assist the PCB in making determinations as to the proper scope of discovery.

Respondent has made a new claim of "collusive schemes" that were not included in the original Petition for Review. Is this new "collusive scheme" allegation to be considered as part of the original Petition for Review? Is it a clarification of the originally vague pleading of bias in

the original Petition for Review? The Respondents cannot know the answer to these questions, and a formal order or determination from the PCB as to the sufficiency of the original pleadings would assist the parties in preparing for the review process. Resolving the issue regarding lack of specificity in the pleadings in the original Petition for Review will also provide further guidance regarding discovery issues.

Allowing broad discovery requests based upon vague bias pleadings do an injustice to Respondents. At a minimum, discovery should be limited to contact or communications that parties had regarding the proposed Groot Lake Waste Transfer Station, which is the subject of this appeal. Requests for documents and information regarding other contact or communications that the parties had regarding the Groot Office Facility, the Groot Garbage Contract with the Village, or the proposed Groot Construction and Demolition Facility are irrelevant to the RLPVB's determinations in the local siting hearing. They cannot be probative in any way regarding whether the RLPVB was biased or made proper determinations in the local siting hearing which is the subject of this case.

If the PCB finds that TCH did not waive its right to allege a lack of fundamental fairness, requiring more specific allegations of bias and failure to make findings would assist the Respondents in preparing for their defense. And limiting discovery to the actual decision making process at the local siting hearing would prevent oppressive discovery requests and would go a long way to ensuring a fair hearing for all parties involved.

WHEREFORE, Respondent, Round Lake Park Village Board, respectfully requests that the Pollution Control Board make specific rulings limiting the scope of discovery to circumstances surrounding the original local siting hearing in this case, and for such other relief that the Pollution Control Board believes would provide a fair hearing for all parties involved.

Respectfully Submitted,
Village Board of Round Lake Park,
Respondent

By: *Peter S. Karlovics*
Peter S. Karlovics,
Attorney for the
Village Board of Round Lake Park

The Law Offices of Rudolph F. Magna 110560
Peter S. Karlovics # 6204536
P.O. Box 705
Gurnee, Illinois 60031
(847) 623-5277

AFFIDAVIT OF SERVICE

The undersigned certifies that on _____, 2014 a copy of the foregoing **Notice of Filing** and _____ was served upon the following:

For the Village of Round Lake Park:

Attorney Glenn Sechen
The Sechen Law Group
13909 Laque Drive
Cedar Lake, IN 46303-9658
glenn@sechenlawgroup.com

Ms. Karen Eggert
Village of Round Lake Park
203 E. Lake Shore Drive
Round Lake Park, IL 60073
keggert@villageofroundlakepark.com

For Groot Industries, Inc.
Attorney Charles F. Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105
chelsten@hinshawlaw.com

Attorney Richard S. Porter
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105
rporter@hinshawlaw.com

Attorney George Mueller
Mueller Anderson & Associates
609 Etna Road
Ottawa, IL 61350
george@muelleranderson.com

For Timber Creek Homes, Inc.:

Attorney Jeffrey D. Jeep
Jeep & Blazer, LLC
24 North Hillside Avenue
Suite A
Hillside, IL 60162
jdjeep@enviroatty.com

Attorney Michael S. Blazer
Jeep & Blazer, LLC
24 North Hillside Avenue
Suite A
Hillside, IL 60162
mblazer@enviroatty.com

By e-mailing a copy thereof as addressed above.

Peter S. Karlovics

Peter S. Karlovics #6204536
The Law Offices of Rudolph F. Magna #110560
495 N. Riverside Dr., Ste. 201
PO Box 705
Gurnee, IL 60031