

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TIMBER CREEK HOMES, INC.,)
)
 Petitioner)
)
 v.) **No. PCB 2014-099**
) **(Pollution Control Facility Siting Appeal)**
)
 VILLAGE OF ROUND LAKE PARK,)
 ROUND LAKE PARK VILLAGE BOARD)
 and GROOT INDUSTRIES, INC.,)
)
 Respondents)

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By: *Glenn C. Sechen*
The Sechen Law Group, PC
Attorney for the
Village of Round Lake Park

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The undersigned hereby attorney certifies that on the 28th day of March, 2014, a copy of the above was filed and served by email, as agreed by counsel, upon the persons shown in the Service List:

Glenn C. Sechen
The Sechen Law Group, PC
Attorney for the
Village of Round Lake Park

Glenn C. Sechen
The Sechen Law Group, PC
13909 Laque Drive
Cedar Lake, IN 46303
312-550-9220
glenn@sechenlawgroup.com

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**VILLAGE OF ROUND LAKE PARK'S
RESPONSE TO TCH's ALLEAL TO THE BOARD**

The Village of Round Lake Park (sometimes referred to as Village Staff, RLP or VRLP) hereby responds to Petitioner's appeal and in support thereof states as follows:

BACKGROUND:

Prior to the filing of the siting application ("Application") on June 21, 2013 RLP Counsel along Counsel for the Village Board represented the entirety of the Village, including the Village Board acting in its legislative capacity. Upon the filing of the siting Application through the Village Board's grant of siting approval, RLP Counsel had no contact with the Village Board and worked independently. During the pendency of the Application, Counsel for the Village Board, represented the Village Board in its quasi-judicial capacity and RLP Counsel represented RLP alone and with no input from anyone. RLP's Counsel made an independent decision to retain consulting experts as published reports cite political figures outside the Village as claiming that a transfer station would destroy property values, a concern to any home owner in the area.

Accordingly, a thorough review of what Groot presented in its Application was

warranted.¹ RLP's Counsel argued before the Village Board that, in the ideal world RLP's Appraisal would have been placed on a website" for public viewing. That report, as it turned out, was favorable to Groot. However whether favorable or not, whichever party found it to be unfavorable would have accused RLP's Counsel of communicating the result to the Village Board outside of the record via the website. *See generally*, Record C 3827 – 29.

**TCH's ARGUMENT
RE RLP's APPRAISER:**

RLP's Appraiser has taught most every course offered by the Appraisal Institute and also teaches for the Appraisal Foundation. Included among the courses he teaches are ethics and the Uniform Standards for Appraisal Practice ("USPAP"). *E.g.* Record C 3742.010 - 3742.011 RLP's Appraiser was cross examined at length on the ethics requirements of his profession including the USPAP.² This because there has been no such violation contrary to TCH's bending, shaping and twisting and simply fabricating what has occurred. The record should be reviewed and if it fails to support TCH, this entire line of discovery should end there.

¹ RLP retained several consulting experts. RLP's Appraiser, was one of those consulting experts, until RLP Counsel decided to call him to testify, at which point, Mr. Kleszynski became a Testifying Expert.

² The Hearing Order has bent over backwards in an attempt to give TCH as much latitude in discovery as possible. For example, in his order denying RLP's motion to quash TCHs' subpoena of the RLP Appraiser's file, the Hearing Officer wrote, "TCH has alleged that the local siting proceedings were fundamentally unfair when the Village failed to disclose that it was a co-applicant with Groot and that the retained appraiser failed to generate an independent review as required by the USPAP". At this time, I find that TCH's subpoena seeking that information lies outside the record might be relevant information or information calculated to lead to relevant information."

The finding that TCH "has alleged" is apparently based on TCH's oral statements during status conferences and its various responses to motions. What is an undisclosed co-applicant? Neither the Hearing Officer nor, most significantly, TCH has defined it. What it means is a complete mystery and likely has an evolving meaning like everything else TCH has claimed.

TCH's tactic is clearly seen in its bending, shaping and twisting of the clear language contained in the record as its launching pad for this entire line of inquiry and related discovery. TCH bases this inquiry on RLP's Appraiser and RLP Counsel's calling him to testify claiming it to be a part of some sort of conspiracy or collusion originating with the Village Board acting through RLP's Counsel to provide Groot with a favorable outcome. TCH's position stands in stark contrast to diligence shown by the Village Board, its exemplary attendance at the hearings and the professionalism exhibited during the entire process. Despite all of this, TCH attempts to tie that cross examination to some type of misconduct by members of the Village Board. TCH's claims are baseless, untrue and not supported by the record. TCH's appeal to the Board has made it obvious that this entire line of inquiry is improper. *See infra*.

What the record does show is RLP's cross examination of TCH's Needs witness focused on his opinion regarding the interplay between the various components of the cost of disposal, and his use of the term "business decisions" related to the "prudence" involved in making the determination of when a siting application should be filed in light of the Needs criterion.³ TCH uses this line of questioning to support its claims.

Importantly, as noted by the Hearing Officer below, TCH's view it is not supported by the record. The questions TCH seeks to bend, shape and twist were in the nature of hypothetical questions replete with the use of "of" and "if". *Eg.* Record

³ Performing a Section 39.2 Needs analysis was not within the scope of work TCH gave him. C03195, C03205 – 06. He only looked at need for the next 12 years. C03176, 3194 – 95. That witness simply disagreed with the timing of the filing of an application of this Application for the siting of a transfer stating saying only that he believes that there will be sufficient landfill capacity until 2027 later acknowledging that there are a lot of "business decisions" involved in the determination of when to file but adding that he didn't believe that it was "prudent" to file when you are confident that the applicable setback requirements can be met. C03196, C-3198 – 3201.

C03221 (transcript page 105), C03237 (transcript page 121). A fair reading of the record is all that is required to see TCH's claim for what it is and return this appeal to its proper scope.⁴ To that end, RLP has attached a highlighted copy of the relevant portions of the transcript contained in the Record as Exhibit A.⁵ Further, even TCH has admitted that the cross examination in question could be interpreted to have multiple meanings. C03223, Lines 11 -14. Simply put, nothing in the Record shows that RLP or the Village Board did anything improper. Most importantly, nothing even suggests that the Village Board or any of its member are anything but public servants of the highest order. After reviewing Exhibit A and the record this Board should preclude discovery regarding this manufactured claim as well.

TCH's cross examination of RLP's Appraiser is in the record, was considered and weighed by the Village Board and given whatever weight the Village Board thought to be appropriate. TCH apparently believes that this Board will reweigh that testimony based on whatever *ex post facto* impeachment TCH thinks it can develop. So we proceed with conducting extensive discovery on this issue which, in reality, is no more than a manifest weight issue masquerading as fundamental fairness. No wonder TCH complains of the sort time remaining for it to conduct discovery. None of this was envisioned by the Legislature as being within the scope of a Section 40.1 "on the

⁴ An objective review of the transcript in question shows that, as a matter of law, TCH's allegations should be disregarded and supports the striking of at least paragraph 7 of its Petition. Exhibit A contains excerpts of the transcript highlighted in yellow which can be seen using a color monitor or color printer.

⁵ The excerpted transcripts in Exhibit are largely, but not completely consecutive pages of the transcript. The page numbers and record cites are in the lower right hand corner. A review of the complete transcript is encouraged. The highlights are largely in yellow and will not show up unless printed on a color printer or viewed on a color computer screen.

record” appeal with its 120 day time limit. Here TCH seeks this Board’s approval to turn its fishing expedition into a witch hunt – all within the prescribed time limitation.

**THE HEARING OFFICERS
LIMITATION OF DISCOVERY:**

Finally in paragraph 12, TCH moves on to the Hearing Officer’s limitation the extensive discovery propounded by TCH. TCH sent out one set of interrogatories and a request for production which applies to Groot and another which applies to RLP and Village Board. The RLP production request is attached as Exhibit B and the interrogatories are attached in Exhibit C hereto. The discovery requests utilize an extensive list of definitions and, essentially, call for a listing of every communication, every communication with the client and the production of every document over an almost 6 year period.⁶ This by itself is both unrealistic and improper.

⁶ **INTERROGATORIES**

1. Identify all communications by any member of the Village Board. [so broad that it includes attorney-client privilege material as well as legislative privilege material]
2. Identify all communications RLP had regarding the transfer station. [so broad that it includes that revealing mental impressions and strategy of RLP’s Counsel, attorney work product privileged material, and attorney-client material]
3. Identify all communication between members of the Village Board regarding the transfer station. [legislative privilege]
11. Identify all contacts and communication to the present between RLP Counsel and his client during. [so broad it includes that revealing mental impressions and strategy (including during this appeal) of RLP’s Counsel - attorney work product privilege, and attorney-client material]⁶
- 12-13. Appraiser related material. See *main text above*

PRODUCTION:

17. All documents related to or reflecting discussion, consideration or contemplation of a waste transfer station. [so broad that it includes that revealing strategy and mental impressions of RLP’s Counsel, attorney work product privilege, and attorney-client material]
19. All documents relating to or reflecting the scope of RLP Counsel’s retention to the present including all invoices to the present. [so broad that it includes that revealing mental impressions and strategy of RLP’s Counsel, attorney work product privilege, not to mention post siting approval material including this appeal]
20. All documents relating to or reflecting all communications between any member of the Village Board and RLP Counsel from the date of his retention to the present. [so broad that it includes that revealing mental impressions and strategy of RLP’s Counsel, attorney work product privilege, and attorney-client material, not to mention post siting approval material including this appeal]
- 21-23. Appraiser related material. See *above*

Significantly, TCH has made it clear in its consolidated response to discovery objections that it expects a listing of any material claimed to be privileged over the relevant period of years. Ethically and practically, TCH should not be seeking to invade the attorney-client privilege and other well recognized privileges to start with.

In paragraph 15 TCH makes much of the fact that the Village Board and RLP admitted the authenticity of certain documents upon which, in the next paragraph, TCH claims to show some sort of grand scheme of collusion going back to 2008. More specifically, TCH claims right to conduct discovery regarding purely legislative decisions made as early as 2008 to the date the siting Application was filed at which time through the date of the Village Board's decision the Village Board acted in a quasi-judicial and not legislative capacity. It is inadvisable for one branch of government to instruct another on how to conduct its business.⁷

TCH again impugns the integrity of the Village Board claiming the existence of a "collusive scheme" which, oddly enough, is contained in and revealed by "Village Board meeting minutes" the accuracy of which RLP and the Village Board have admitted. Significantly, these minutes are a matter of public record and are and have been available on the Village website.

Many deal with things like zoning as it relates to the other facilities Groot owns adjacent or in the immediate vicinity of the proposed transfer station. In paragraph 17(h) of its appeal, TCH notes that the Village Board discussed how far Groot should be pushed on host fees at the risk of causing Groot to abandon its hope of developing a transfer station. This sounds suspiciously like a village board acting in its legislative capacity to obtain economic benefit for the Village and all CONTRARY to Groot's economic interest. Here, after extensive negotiations, a host agreement providing for

⁷ For example, the board has no authority to review legislative zoning decisions, even if the zoning decision relates to a landfill or, for that matter, the other facilities Groot might own. See generally, Stark v. Cook County Board and Northwest Municipal Conference, PCB 87-195 (December 17, 1987) affirmed in Stark v. PCB, 177 Ill.App.3d 293, 532 N.E.2d 309 (1st Dist. 1988). It is doubtful whether the trailer park petitioner has any real interest in these facilities, but a competitor could certainly utilize discovery obtained in this proceeding in other litigation against the Village and/or Groot. to bend and shape the facts to suit whatever evolving theory morphs into is creative but need not and should not be tolerated. None of this was contemplated by the Legislature.

the payment of host fees was negotiated and is a part of the Application. Naturally, TCH seeks to bend, shape and twist this into that grand conspiracy and collusion with Groot to site the transfer station.

TCH's claims no more pass the red face test than does its distortion of the transcript and its claims regarding the extension of this "collusion" to RLP's Appraiser. The right of local government to secure economic advantage connected with pollution control facilities has long been upheld.

In Concerned Adjoining Owners and Those Opposed to Area Landfills

(T.O.T.A.L) v. Pollution Control Board, (5th Dist, 1997) addressed a similar issue:

The objectors make an extremely logical argument, that a hearing on the issue of whether to place a landfill in a certain area which is conducted by the same people who have already purchased land and spent large sums of public funds for that very purpose is fundamentally unfair because it is designed to insure that the site application will be granted. Despite the logic of the argument, our legislature and courts have already decided the issue against the objectors.

The 5th District extensively examined the E&E Hauling cases and repeatedly applied those cases at one point writing:

Again, E & E Hauling is instructive. There, the court determined that even if the decision-makers had already formed opinions about the proposed landfill, that did not mean that they had prejudged the adjudicative facts, i.e., the relevant criteria of section 39.2. E & E Hauling, 107 Ill.2d at 43, 89 Ill.Dec. 821, 481 N.E.2d 664. See also Waste Management of Illinois, Inc. v. Pollution Control Board, 175 Ill. App.3d 1023, 1040, 125 Ill.Dec. 524, 530 N.E.2d 682 (1988) (where the court held that the fact that an administrative official has taken a public position or expressed strong views on an issue does not overcome the presumption that the official will fairly and objectively decide the controversies before them). Where the administrative agency, or municipal government, as in the case at bar, "operates in an adjudicatory capacity, bias or prejudice may only be shown if a disinterested observer might conclude that the administrative body, or its members, had in some measure adjudged the facts as well as the law of the case in advance of hearing it." Waste Management, 175 Ill.App.3d at 1040, 125 Ill.Dec. 524, 530 N.E.2d 682.

Even ignoring TCH's fabrication of what it claims to be fundamental fairness issues found in public documents on the Village website, that should put an end to those claims as well as the claims regarding RLP's Appraiser and RLP's Counsel. A fair reading of the transcript both in the record and that contained in Exhibit A [with yellow highlighting] alone should likewise put an end to massive conspiracy TCH invented regarding RLP and its Appraiser thus casting aside all of TCH's aspersions against a really good Village Board. No discovery is warranted. This case should proceed, at most, on the manifest weight of the evidence where TCH's unfounded claims regarding RLP's Appraiser belong even if true, which they are not. In light of TCH's admissions in this appeal, RLP requests that the Board reconsider its Motion to Strike and Dismiss.

WHEREFORE, Respondent, the Village of Round Lake Park, respectfully requests that the Pollution Control Board to deny the TCH appeal and to reconsider its ruling on the Village of Round Lake Park's Motion to Strike and Dismiss.

Respectfully submitted,
Village of Round Lake Park

By Glenn C. Sechen
One of Its Attorneys

Glenn C. Sechen
The Sechen Law Group, PC
13909 Laque Drive
Cedar Lake, IN 46303
312-550-9220

EXHIBIT A

1 Q. Sure. You might also find some advantage
2 in protecting yourself from future potential price
3 increases from the remaining in-county landfills?

4 MR. BLAZER: Also object to the form of the
5 question.

6 THE HEARING OFFICER: You may answer.

7 THE WITNESS: Look, these are all businesses.
8 The Village needs to make business decisions. The
9 hauler needs to make those business decisions. And
10 the landfills do. And that's a very big dynamic,
11 and people can choose to make those decisions at
12 one point in time or another point in time.

13 BY MR. SECHEN:

14 Q. Well, that's the point.

15 MR. BLAZER: I don't believe he is done with
16 the answer, Mr. Hearing Officer.

17 THE HEARING OFFICER: Mr. Thorsen, were you
18 done with your answer? I thought you were as well,
19 but --

20 THE WITNESS: I was going to finish with, I was
21 hired to determine if there was a need in the
22 service area at this time for a transfer station,
23 and my opinion is there is no need at this time for
24 a transfer station to serve the service area.

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1 BY MR. SECHEN:

2 Q. Mr. Thorsen, we're on a slightly different
3 question now, slightly different.

4 You mention it's a business decision, and
5 there may be some potential prudence involved in
6 protecting yourself from potential future
7 increases.

8 Do you have -- do you take issue with a
9 business decision made to do exactly that, site
10 transfer station?

11 MR. BLAZER: Objection. Asked and answered.
12 He just answered that.

13 THE HEARING OFFICER: Objection is sustained.
14 Also, I think we are starting to get a little far
15 afield, Mr. Sechen.

16 BY MR. SECHEN:

17 Q. Mr. Thorsen, is it accurate to say that
18 what you've testified to is sort of an overall
19 picture of Lake County and the Lake County solid
20 waste position, if you will, and the fact that
21 there's some capacity remaining in Lake County to
22 sometime in the future that's maybe a little bit
23 less than definite, is that correct?

24 MR. BLAZER: Object to the form of the

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1 question. It's also compound. Mischaracterizes.

2 THE HEARING OFFICER: I am going to sustain it
3 as to form. I'm not sure what, "it was a little
4 less than definite" meant, Mr. Sechen. I was with
5 you until that part.

6 BY MR. SECHEN:

7 Q. Let me just simply ask this, do you take
8 issue with some portion of Lake County finding it
9 necessary or prudent, if you will, to make a
10 business decision to site a landfill?

11 MR. BLAZER: Objection: Asked and answered and
12 relevance. Some portion of Lake County?

13 MR. CLARK: I'm going to also join in that
14 objection. The County isn't making any decisions
15 here or any portion of the County. It's the
16 Applicant that has an application before the
17 Village for local siting.

18 MR. SECHEN: Exactly.

19 THE HEARING OFFICER: Well, and I guess I'm
20 also lost what the siting of a landfill is at this
21 point in the question.

22 MR. SECHEN: Did I say landfill? Oh, I'm
23 sorry. I'm sorry.

24

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1 BY MR. SECHEN:

2 Q. Do you take issue with any portion of Lake
3 County making a business decision to site a
4 transfer station?

5 MR. BLAZER: Same objections, Mr. Hearing
6 Officer.

7 THE HEARING OFFICER: You may answer but --

8 THE WITNESS: No. I do not.

9 BY MR. SECHEN:

10 Q. So then you would have no issue with Round
11 Lake, the Village of Round Lake, my client -- Round
12 Lake Park, I'm sorry, and it's hauler finding it
13 prudent, if they do, to site a transfer station?

+++++

14 MR. BLAZER: Objection. Both relevance. And
15 now it's been asked and answered three times.

16 THE HEARING OFFICER: Well, it hasn't been
17 asked and answered, but we are -- we're getting
18 away from Criteria 1, which is really where we're
19 supposed to be, and I'm giving a pretty far field
20 here and I'm trying to tie this in.

21 MR. SECHEN: I don't think we are.

22 THE HEARING OFFICER: I think we are. We have
23 gone from need to prudence, and I'm not really sure
24 those are the same thing. And if you could tell me

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1 how they are, Mr. Sechen, I'll let you proceed.

2 MR. SECHEN: I think the comment that common
3 dictionary definition would lead you to believe
4 prudent -- you're sustaining the objection because
5 I used the word prudent instead of need?

6 THE HEARING OFFICER: Yes.

7 MR. SECHEN: I think that's completely wrong.

8 THE HEARING OFFICER: That's where we're at.

9 MR. SECHEN: If the objection is sustained,
10 I'll move on.

11 THE HEARING OFFICER: Yes, it is.

12 BY MR. SECHEN:

13 Q. Okay. Not the same question, Mr. Thorsen,
14 do you take issue with the Village of Round Lake
15 Park and its hauler finding it necessary, if they
16 do, to site a transfer station for whatever
17 business reasons they may have?
+++++++
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18 MR. BLAZER: Objection. Relevance. It's not
19 Criteria 1.

20 THE HEARING OFFICER: Objection overruled.

21 MR. CLARK: I'm going to object as well. I
22 didn't know that the Village was an applicant in
23 this case.

24 MR. SECHEN: Village isn't. Village is making

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1 the decisions.

2 MR. CLARK: That was the question. Village and
3 Groot.

4 THE HEARING OFFICER: The objection is
5 overruled. You may answer.

6 MR. BLAZER: Just for the record, Mr. Hearing
7 Officer, I'm sorry.

8 THE HEARING OFFICER: Please.

9 MR. BLAZER: If Mr. Sechen is now saying that
10 the Village and Groot have already decided to site
11 this transfer station, then he had raised a
12 dramatically different issue in this case.

13 MR. SECHEN: That's not what I said.

14 THE HEARING OFFICER: Let me respond,
15 especially, because I heard -- I did not hear that
16 they had decided. I heard "if they decide," that
17 was the statement, that was the question I'm ruling
18 on. And if they decide that it's necessary, the
19 question is, if they decide it's necessary, do you
20 disagree with them? That's what I heard, and
21 that's the question that I think is prudent --
22 proper. Now, you almost got me saying prudent.
23 That's the proper question.

24 MR. SECHEN: I will keep this up.

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1 THE HEARING OFFICER: That is the question I
2 think is proper, and would you please answer it,
3 Mr. Thorsen.

4 THE WITNESS: The Village and Groot have the
5 power they see fit. However, I also opine that
6 there is no current need in the service area for a
7 transfer station at this time.

8 BY MR. SECHEN:

9 Q. So you take no issue with the Village
10 doing just that, but you find there is no need
11 because there's sufficient capacity numerically,
12 it's simply a mathematical exercise in the county?

13 MR. BLAZER: Object to the form of the
14 question. "Just that"? I have no idea what he's
15 talking about. I'd be shocked that the witness
16 does.

17 THE HEARING OFFICER: Does the witness
18 understand the question?

19 THE WITNESS: No.

20 THE HEARING OFFICER: Okay. You want to
21 rephrase it, Mr. Sechen?

22 BY MR. SECHEN:

23 Q. Well, you mention that these are all
24 **business decisions**.

1 Would you explain how business enters into
2 the picture?

3 A. Policies, costs. Primarily, costs.

4 Q. So **if it were** determined by a Village that
5 it were necessary to site a transfer station, any
6 village within this community or this county, for
7 costs reasons, would you take issue with that?

8 MR. BLAZER: Mr. Hearing Officer, I know my
9 brother Mr. Clark to the right here suggested that
10 I let Mr. Sechen hang himself, but I can't really
11 do that. **Either Mr. Sechen is suggesting the**
12 **Village has already made that decision or he's**
13 **asking a completely irrelevant question, now**
14 **multiple times.** Either way, it's objected to. If
15 it's the first, like I said, we have a very
16 different issue in this case. If it's the latter,
17 it's completely irrelevant.

18 THE HEARING OFFICER: Mr. Sechen, I'll let you
19 respond to that.

20 MR. SECHEN: You know, if the witness himself
21 mentioned the fact that this is really a **business**
22 **decision, I think I'm entitled to explore that.**

23 THE HEARING OFFICER: Well, I think what is
24 important, first of all, that you answer the first

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1 part of the two-part objection. That's the
2 objection I want to hear the answer to first. And
3 then we'll talk about the second part afterwards.

4 MR. SECHEN: But I -- at this point now, I've
5 forgotten what the first part is.

6 THE HEARING OFFICER: Mr. Blazer is making the
7 statement or the implication for lack of a better
8 word, and I'm sure there's a better one, that the
9 Village has already made the decision to site --

10 MR. SECHEN: Oh, that's ridiculous.

11 THE HEARING OFFICER: Well, that's I want you
12 to respond to first.

13 MR. SECHEN: Neither have they nor have I
14 suggested that they have.

15 THE HEARING OFFICER: Now, as to the business
16 decision, I will overrule the objection at this
17 point. Let's get it done. Move on. Because we
18 are, as we keep going, it's getting less and less
19 relevant in my mind.

20 BY MR. SECHEN:

21 Q. Do you recall what the question is,
22 Mr. Thorsen?

23 A. In general. But I'd like you to repeat
24 it.

1 MR. SECHEN: Could you read it back, please?

2 (Record read as requested.)

3 THE HEARING OFFICER: That question stands.

4 Please answer the question, Mr. Thorsen.

5 THE WITNESS: I personally would not take issue
6 with it. However, I have determined there is no
7 need at this time.

8 BY MR. SECHEN:

9 Q. No need, because mathematically there is
10 some capacity in the landfills in this county?

11 A. Both mathematically, and I believe the
12 cost would be less going to incoming landfills via
13 direct haul.

14 MR. PORTER: Objection. Foundation. He hasn't
15 done any analysis or study to justify such an
16 opinion. Move to strike.

17 THE HEARING OFFICER: Objection overruled.

18 BY MR. SECHEN:

19 Q. Well, you haven't done any analysis of the
20 cost, have you?

21 A. I qualified it by saying "I believe." I
22 did not say that it would definitely cause --

23 Q. So there's a certain amount of conjecture
24 involved?

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1 cross-examination, and those are, the report stands
2 for what it is, not for what it may or may not
3 purport to be. How about Exhibit 3, any objection?

4 MR. BLAZER: 22.

5 THE HEARING OFFICER: Sorry. Exhibit 22. The
6 IEPA landfill capacity data from August 2013.

7 Hearing no objection, TCH Exhibit 22 will
8 be admitted without objection.

9 Mr. Blazer, you said you had a statement?
10 I'm not sure what that may be, but I guess we'll
11 let you start.

12 MR. BLAZER: I'm saying this at this point,
13 Mr. Hearing Officer, only because I believe we're
14 required to do so, or I will waive this for appeal.

15 Based on Mr. Sechen's performance today,
16 it is apparent to us that this application -- or I
17 should say not Mr. Sechen, by the attorney for the
18 Village of Round Lake Park, it is apparent to us
19 that there has been a predetermining of this
20 application, the rules of fundamental fairness have
21 been violated. And I want to state that for the
22 record.

23 THE HEARING OFFICER: Okay. And when you say
24 the attorney for the Village of Round Lake Park, I
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1 assume you're not talking about Mr. Karlovics?

2 MR. BLAZER: I absolutely am not talking about
3 Mr. Karlovics.

4 THE HEARING OFFICER: Let's get that straight
5 right now. Because he's done very little, if
6 anything, accept help us with the program.

7 MR. BLAZER: No. I'm talking --

8 THE HEARING OFFICER: But let me respond to
9 that, or I guess let me let Mr. Sechen respond
10 first, and then we will --

11 MR. KARLOVICS: I want to respond, too.

12 MR. SECHEN: I don't think there's any response
13 necessary, because it's ridiculous on its face.

14 THE HEARING OFFICER: Mr. Karlovics, if you
15 wish to respond, I'll allow you to.

16 MR. KARLOVICS: All I want to say very briefly
17 is that this Board has been committed to hear. And
18 there's no evidence whatsoever of any type of
19 predetermination whatsoever. What you have is
20 board members showing, listening to all evidence.
21 They have come here with no preconceived notions,
22 so there's no evidence whatsoever that this Board
23 has made any type of determination, and so we
24 object to Mr. Blazer's motion.

1 THE HEARING OFFICER: Mr. Blazer, I'll give you
2 a very quick reply to that.

3 MR. PORTER: Before he does so, may I make a
4 comment?

5 THE HEARING OFFICER: Please, you may. I'm
6 sorry, Mr. Porter, I apologize.

7 MR. PORTER: In addition to what Mr. Karlovics
8 has indicated, I'd like to point out Mr. Sechen is
9 not a decisionmaker. He's just an attorney. What
10 he says is not evidence. You have already warned
11 the decisionmaker of that fact. So this is just
12 simply objectors grabbing at straws and trying to
13 create issues which do not exist.

14 THE HEARING OFFICER: Anybody else wish to
15 weigh in on this?

16 Mr. Blazer, I will have to say that Mr. --
17 or excuse me Mr. Clark, Mr. Blazer has implied that
18 you agree with him. I haven't heard you agree with
19 him on the record, so I will let Mr. Blazer say his
20 reply, and we'll go from there.

21 MR. BLAZER: I'll stand on my prior comments.

22 THE HEARING OFFICER: Okay. I think there was
23 a motion in there somewhere.

24 MR. BLAZER: There actually was not.

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1 THE HEARING OFFICER: You made the statement --

2 MR. BLAZER: I don't think you'd be authorized
3 to grant any such motion anyway.

4 THE HEARING OFFICER: I don't think I would.

5 I will say that my observations of what
6 I've seen do not -- I would not agree with your
7 statement based on the observations I have seen.

8 I have seen Mr. Sechen make statements or
9 questions based on ifs, on assumptions, if
10 something were to occur, then what. I haven't
11 heard him say anything that something is a given to
12 occur that this Village Board, whatever decisions
13 they're going to make. And I have -- and I was
14 going to say this later, I may, but I will also say
15 it today, what's been pretty obvious to me is that
16 this Village Board has spent a lot of time here,
17 and we've seen a lot of the members here over the
18 past three days, at some probably inconvenient
19 times for all of them, and they have been paying
20 attention and asking for documents, in fact. So
21 I'm not saying you're disagreeing with that,
22 Mr. Blazer. That's just an observation from me. I
23 don't know that it needs a response, but if you
24 wish to, I'll give you a few seconds for a formal

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EXHIBIT B

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-------------------------------|---|--|
| TIMBER CREEK HOMES, INC., |) | |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | No. PCB 2014-099 |
| |) | |
| VILLAGE OF ROUND LAKE PARK, |) | (Pollution Control Facility Siting Appeal) |
| ROUND LAKE PARK VILLAGE BOARD |) | |
| and GROOT INDUSTRIES, INC., |) | |
| |) | |
| Respondents |) | |

PETITIONER’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS FROM VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD

Now comes Petitioner, Timber Creek Homes, Inc. (“TCH”), by its attorneys, Jeep & Blazer, LLC, and pursuant to 35 IAC 101.616, hereby requests that Respondents Village of Round Lake Park (“VRLP”) and Round Lake Park Village Board (the “RLP Board”), produce the documents requested herein for inspection and copying at the offices of Jeep & Blazer, LLC, 24 N. Hillside Avenue, Suite A, Hillside, Illinois within 28 days of service hereof.

DEFINITIONS AND INSTRUCTIONS

A. Unless otherwise specifically indicated, the period of time encompassed by this Request is March 1, 2008 through June 21, 2013.

B. "Documents" shall include all written material or other tangible medium of reproduction of every kind or description, however produced or reproduced, including, without limitation, correspondence, notes, memoranda, recordings, photographs, letters, financial statements, tax returns, bank account statements, specifications, inspection reports, blueprints, drawings, diagrams, charts, summaries, computer printouts, computer or other digital data, microfilm, microfiche, records of oral conversations, diaries, calendars, field reports, logs, minutes, meetings, analyses, projections, work papers, tape recordings, films, video tapes, models, statistical statements, graphs, laboratory and engineering reports and notebooks, plans, minutes or records of meetings, minutes or records of conferences, lists of persons attending

meetings or conferences, reports and/or summaries of investigations, opinions, or reports of consultants, appraisals, evaluations, records, contracts, agreements, leases, invoices, receipts, preliminary drafts, however denominated, by whomever prepared, to whomever addressed, which are in possession of the respondent as defined herein. Further, "documents" includes any copies of documents which are not identical duplicates of originals, including, but not limited to, all drafts of whatever date and copies with typed or handwritten notations, and any other form of reporting, storing, maintaining or indexing such information, including, without limitation, electronic storage, computer storage, shorthand notes, diagrams, magnetic cards and other forms of storage.

C. "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identity of person(s) to whom and by whom it was made, the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

D. "Relating to" shall refer to documents that contain or refer in any way, directly or indirectly, to or in any legal, logical or factual way, or are in any other way connected with, the subject matter of a paragraph of this Request.

E. "Person" includes any individual, corporation, unit of government, trust, and any other collective organization or entity unless the context clearly indicates reference to an individual person.

F. Whenever reference is made to any person or entity by name, such reference shall be deemed to include all of the person's or entity's agents, employees, appointed officials, elected officials and attorneys, and the entity's subsidiaries, departments, committees, affiliates, merged, consolidated or acquired predecessors, divisions and holding or parent companies, and includes

present and former elected and appointed officials, officers, directors, shareholders, agents, employees and attorneys.

G. As used herein, "and" as well as "or" should be considered either disjunctively or conjunctively as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope.

H. This request shall be deemed continuing so as to require prompt, further and supplemental production if you obtain possession of documents responsive to any request herein.

I. If you assert that any document called for by this request is privileged, you shall provide the following information with respect to each document:

- (1) Its date;
- (2) Its author;
- (3) All addresses of recipients of the original or copies thereof;
- (4) A brief description of its subject matter and physical size; and
- (5) The nature of the privilege claimed.

J. Wherever appropriate herein, the singular form of a word should be interpreted to include the plural, and vice versa.

K. In producing documents responsive to this request, you are requested to indicate for which paragraph each document is responsive.

L. If any document requested by this request has been destroyed, mutilated, altered, redacted, or discarded, that document must be identified by stating:

- (1) The name and address of the sender of the document;
- (2) The name and address of the author of the document;
- (3) The name and address of all entities to whom the document was addressed;
- (4) The name and address of all entities to whom a copy of the document was sent;

- (5) The name and address of all entities known to Defendants who had seen the document or participated in communications about the document;
- (6) The job title of each entity listed in (1) through (5) above;
- (7) The name and address of all entities known to Defendants who have received or currently possess a copy of the document;
- (8) The date of the document;
- (9) The date of destruction, alteration, mutilation, redaction, or discard of the document, manner of destruction, alteration, mutilation, redaction, or discard of the document, and reasons for destruction, alteration, mutilation, redaction, or discard of the document;
- (10) A brief description of the nature and subject of the document; and
- (11) The entity authorizing and performing the destruction, alteration, mutilation, redaction, or discard of the document.

M. If you object to any of the definitions or instructions herein, or to any of these specific requests herein, state in writing each objection and the grounds thereof.

N. You are requested to produce an affidavit stating whether the production is complete in accordance with this request as provided in Illinois Supreme Court Rule 214.

DOCUMENTS REQUESTED

1. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Groot Industries, Inc..

2. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Groot Industries, Inc..

3. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Lee Brandsma.

4. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Lee Brandsma.

5. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Larry Groot.

6. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Larry Groot between March 2008 and June 21, 2013.

7. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Walter Willis.

8. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Walter Willis.

9. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Chicago Bridge & Iron Company.

10. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Chicago Bridge & Iron Company.

11. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and The Shaw Group and/or Shaw Environmental, Inc..

12. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and The Shaw Group and/or Shaw Environmental, Inc..

13. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Devin Moose.

14. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Devin Moose.

15. All documents relating to or reflecting all meetings, conversations, communications and contacts between VRLP and Doug Allen.

16. All documents relating to or reflecting all meetings, conversations, communications and contacts between any member of the RLP Board and Doug Allen.

17. All documents relating to or reflecting discussion, consideration or contemplation of a waste transfer station in the Village of Round Lake Park.

18. All documents relating to or reflecting the retention of Glenn Sechen ("Sechen") by VRLP, including, but not limited to, all documents relating to or reflecting the scope of Sechen's retention.

19. All documents relating to or reflecting all services performed by Sechen from the date of his retention by VRLP to the present, including, but not limited to, all invoices or statements for services rendered.

20. All documents relating to or reflecting all communications between any member of the RLP Board and Sechen from the date of his retention by VRLP to the present.

21. All documents relating to or reflecting the retention of Dale Kleszynski ("Kleszynski") by VRLP, including, but not limited to, all documents relating to or reflecting the scope of Kleszynski's retention.

22. All documents relating to or reflecting all services performed by Kleszynski from the date of his retention by VRLP to the present, including, but not limited to, all invoices or statements for services rendered.

23. All documents relating to or reflecting all communications between VRLP and Kleszynski from the date of his retention by VRLP to the present.

24. All documents relating to or reflecting all communications between any member of the RLP Board and Kleszynski from the date of his retention by VRLP to the present.

Respectfully submitted,
Timber Creek Homes, Inc.

By: _____
One of its attorneys

Michael S. Blazer (ARDC No. 6183002)

Jeffery D. Jeep (ARDC No. 6182830)

Jeep & Blazer, LLC

24 N. Hillside Avenue, Suite A

Hillside, IL 60162

(708) 236-0830

Fax: (708) 236-0828

mblazer@enviroatty.com

jdjeep@enviroatty.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS FROM VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD to be served on the following, via electronic mail transmission, on this 1st day of February, 2014:

Hearing Officer

Bradley P. Halloran
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
Brad.Halloran@illinois.gov

For the Village of Round Lake Park

Peter S. Karlovics
Law Offices of Rudolph F. Magna
495 N Riverside Drive, Suite 201
Gurnee, IL 60031-5920
PKarlovics@aol.com

For Groot Industries, Inc.

Charles F. Helsten
Richard S. Porter
Hinshaw and Culbertson
100 Park Avenue
Rockford, IL 61101-1099
chelsten@hinshawlaw.com
rporter@hinshawlaw.com

For the Round Lake Park Village Board

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

Michael S. Blazer
One of the attorneys for
Petitioner

EXHIBIT C

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-------------------------------|---|--|
| TIMBER CREEK HOMES, INC., |) | |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | No. PCB 2014-099 |
| |) | |
| VILLAGE OF ROUND LAKE PARK, |) | (Pollution Control Facility Siting Appeal) |
| ROUND LAKE PARK VILLAGE BOARD |) | |
| and GROOT INDUSTRIES, INC., |) | |
| |) | |
| Respondents |) | |

PETITIONER’S FIRST SET OF INTERROGATORIES TO VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD

Now comes Petitioner, Timber Creek Homes, Inc. (“TCH”), by its attorneys, Jeep & Blazer, LLC, and pursuant to 35 IAC 101.616, hereby propounds upon Respondents, Village of Round Lake Park (“VRLP”) and Round Lake Park Village Board (the “Village Board”), the following interrogatories to be answered fully in writing and under oath, within 28 days after service hereof. The responses to these Interrogatories shall be prepared in accordance with the "Definitions and Instructions" set forth herein.

DEFINITIONS AND INSTRUCTIONS

- A. Unless otherwise specifically indicated, the period of time encompassed by these Interrogatories is March 1, 2008 through June 21, 2013.
- B. The term "person" includes any individual, corporation, unit of government, trust, and any other collective organization or entity unless the context clearly indicates reference to an individual person.
- C. Whenever reference is made to any person or entity by name, such reference shall be deemed to include all of the person's or entity's agents, employees, appointed

officials, elected officials and attorneys, and the entity's subsidiaries, departments, committees, affiliates, merged, consolidated or acquired predecessors, divisions and holding or parent companies, and includes present and former elected and appointed officials, officers, directors, shareholders, agents, employees and attorneys.

- D. The term "relating to" means referring to, reflecting, and/or pertaining in any way, directly or indirectly, to or in any legal, logical or factual way connected with the matter discussed, and includes any documents used in the preparation of any document called for by each paragraph of these interrogatories.
- E. The term "communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identity of person(s) to whom and by whom it was made, the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.
- F. As used herein, "and" as well as "or" should be considered either disjunctively or conjunctively as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside of their scope.
- G. Wherever appropriate herein, the singular form of a word should be interpreted to include the plural, and vice versa.
- H. As used herein, the word "identify" when used in connection with a verbal

communication shall mean to state the following:

1. The date of that communication;
 2. Identify the persons who were parties to that communication;
 3. Identify the persons who were witnesses (other than the parties) to the communication;
 4. State whether that communication was face-to-face and/or over the telephone, and if face-to-face, describe the location of that communication; and
 5. Identify any documents which pertain to that communication.
- I. As used herein, the word "identify" when used in reference to a natural person (i.e., human being) means to state:
1. The person's full name;
 2. Present (or last known) address;
 3. Present (or last known) occupation or position; and
 4. Name of his present (or last known) employer.
- L. The word "identify" when used in reference to a person other than an individual, means to state:
1. Its full name;
 2. Its present (or last known) address ; and
 3. Its present (or last known) telephone number.
- M. The word "identify" when used in reference to a document, means to state:
1. Its date;
 2. Its subject and its substance;

3. Its author
 4. Its recipients; and
 5. The type of documents (e.g., letter memorandum, telegram, chart, computer input or print-out, photograph, sound reproduction, etc.
- N. If you object to any of the definitions or instructions herein, or to any of the interrogatories herein, state in writing each objection and the grounds thereof.

INTERROGATORIES

1. Identify all communications in verbal, written or electronic form made by or to any member of the RLP Board relating to the subject of a waste transfer station in the Village of Round Lake Park.

ANSWER:

2. Identify all communications in verbal, written or electronic form made by or to VRLP relating to the subject of a waste transfer station in the Village of Round Lake Park.

ANSWER:

3. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and any other member of the RLP Board where the subject of a waste transfer station in the Village of Round Lake Park was discussed.

ANSWER:

4. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and any officer, agent, employee or representative of Groot Industries, Inc.

ANSWER:

5. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Lee Brandsma.

ANSWER:

6. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Larry Groot.

ANSWER:

7. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Walter Willis.

ANSWER:

8. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Devin Moose.

ANSWER:

9. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Chicago Bridge & Iron Company.

ANSWER:

10. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Shaw Environmental, Inc.

ANSWER:

11. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Glenn Sechen from the date of his retention by VRLP to the present.

ANSWER:

12. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Dale Kleszynski from the date of his retention by VRLP to the present.

ANSWER:

13. Identify all meetings, conversations, communications and contacts between VRLP and Dale Kleszynski from the date of his retention by VRLP to the present.

ANSWER:

Respectfully submitted,
Timber Creek Homes, Inc.

By: _____
One of its attorneys

Michael S. Blazer (ARDC No. 6183002)
Jeffery D. Jeep (ARDC No. 6182830)
Jeep & Blazer, LLC
24 N. Hillside Avenue, Suite A
Hillside, IL 60162
(708) 236-0830
Fax: (708) 236-0828
mblazer@enviroatty.com
jdjeep@enviroatty.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S FIRST SET OF INTERROGATORIES TO VILLAGE OF ROUND LAKE PARK AND ROUND LAKE PARK VILLAGE BOARD to be served on the following, via electronic mail transmission, on this 1st day of February, 2014:

Hearing Officer

Bradley P. Halloran
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
Brad.Halloran@illinois.gov

For the Village of Round Lake Park

Peter S. Karlovics
Law Offices of Rudolph F. Magna
495 N Riverside Drive, Suite 201
Gurnee, IL 60031-5920
PKarlovics@aol.com

For Groot Industries, Inc.

Charles F. Helsten
Richard S. Porter
Hinshaw and Culbertson
100 Park Avenue
Rockford, IL 61101-1099
chelsten@hinshawlaw.com
rporter@hinshawlaw.com

For the Round Lake Park Village Board

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

Michael S. Blazer
One of the attorneys for
Petitioner

SERVICE LIST

CLERK AND DEPUTY CLERK, VILLAGE OF ROUND LAKE PARK

Karen Eggert, Clerk
Cindy Fazekas, Deputy Clerk
Village of Round Lake Park
203 E. Lake Shore Drive
Round Lake Park, IL. 60073
keggert@villageofroundlakepark.com
Cfazekas@RoundLakePark.us

**COUNSEL FOR THE VILLAGE BOARD
VILLAGE OF ROUND LAKE PARK**

Peter Karlovics
Magna & Johnson
495 N. Riverside Drive
Suite 201
P.O. Box 705
Gurnee, Illinois 60031
pkarlovics@aol.com

COUNSEL FOR TIMBER CREEK HOMES

Michael S. Blazer
Jeffery D. Jeep
Jeep & Blazer, LLC
24 N. Hillside Avenue
Suite A
mblazer@enviroatty.com
jdjeep@enviroatty.com

COUNSEL FOR GROOT INDUSTRIES

Charles F. Helsten
Richard S. Porter
Hinshaw Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
chelsten@hinshawlaw.com
rporter@hinshawlaw.com

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

Peggy L. Crane
Hinshaw & Culbertson LLP
416 Main Street, 6th Floor
Peoria, IL 61602
pcrane@hinshawlaw.com