

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 April 9, 2014 the undersigned caused to be filed electronically with the clerk of the Illinois Pollution Control Board **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S MOTION TO QUASH SUBPOENA FOR DEPOSITION OF DERKE J. PRICE**, 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
MOTION TO QUASH SUBPOENA FOR DEPOSITION OF DERKE J. PRICE**

Now comes the Respondent, Round Lake Park Village Board ("RLPVB"), by its attorneys, the Law Offices of Rudolph F. Magna, and hereby moves that the Petitioner Timber Creek Homes, Inc.'s SUBPOENA FOR DEPOSITION be quashed. In support of said Motion, the RLPVB states as follows:

1. On April 8, 2014, Petitioner Timber Creek Homes, Inc. ("TCH") issued a "SUBPOENA FOR DEPOSITION" for Derke J. Price to appear on April 21, 2014 at 1979 N. Mill Street, Suite 207, Naperville, Illinois, 60563. (See a copy of the SUBPOENA FOR DEPOSITION attached hereto as Exhibit "A")
2. Respondent Groot Industries, Inc. ("Groot") filed its application for local siting approval with the Village of Round Lake Park on June 21, 2013.
3. RLPVB contemplated appointing Derke Price as hearing officer for the above local siting hearing before the RLPVB at a Village Board meeting to be held on July 2, 2013. (see Exhibit "B" attached hereto)

4. Derke Price represents the Village of Hainesville, a neighboring community to the Village of Round Lake Park, and learned that his client intended to object to the above Groot application.

5. Derke Price withdrew his name from consideration as hearing officer for the above local siting hearing on June 27, 2013. (see Exhibit "C" attached hereto)

6. Derke Price was never appointed hearing officer for the above local siting hearing.

7. Derke Price played no role in the above local siting hearing.

8. 35 Ill. Adm. Code 101.622 (d) provides:

"d) The hearing officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is ***unreasonable or irrelevant***. The hearing officer will rule upon motions to quash or modify material requested in the subpoena pursuant to subsection (c) of this Section in accordance with the standards articulated in Section 101.614 of this Part." (*emphasis supplied*)

9. 35 Ill. Adm. Code 101.614 provides:

"The hearing officer may, on his or her own motion or on the motion of any party, order the production of information that is relevant to the matter under consideration. The hearing officer will ***deny, limit or condition the production of information when necessary to prevent undue delay, undue expense, or harassment***, or to protect materials from disclosure consistent with Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130." (*emphasis supplied*)

10. TCH's SUBPOENA FOR DEPOSITION of Derke Price is unreasonable and irrelevant to the facts of this case, and only causes undue delay, undue expense and the harassment of Derke J. Price.

WHEREFORE, Respondent, Round Lake Park Village Board, respectfully requests Petitioner Timber Creek Homes, Inc.'s SUBPOENA FOR DEPOSITION be quashed, and grant Respondent, Round Lake Park Village Board such further and other relief as deemed just and proper.

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

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)	

NOTICE OF DEPOSITION

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that the undersigned will, at 10:00 a.m. on April 21, 2014, at 1979 N. Mill St., Suite 207, Naperville, IL 60563, take the discovery deposition of Derke J. Price before a Notary Public or any other duly authorized officer in the State of Illinois, pursuant to Subpoena, a copy of which is attached hereto.

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

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EXHIBIT A

Before the Illinois Pollution Control Board

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

SUBPOENA FOR DEPOSITION

TO: Derke J. Price
 Ancel, Glink, Diamond, Bush, Dicianni & Krafthefer, P.C.
 1979 N. Mill St., Suite 207
 Naperville, IL 60563
 dprice@ancelglink.com

Pursuant to Section 5(e) of the Environmental Protection Act (415 ILCS 5/5(e) (2002)) and 35 Ill. Adm. Code 101, Subpart F, you are ordered to attend and give testimony at the deposition in the above-captioned matter at 10:00 a.m. on April 21, 2014 at Ancel, Glink, Diamond, Bush, Dicianni & Krafthefer, P.C., 1979 N. Mill St., Suite 207, Naperville, IL 60563.

You are also ordered to bring with you documents relevant to the matter under consideration and designated herein:

1. All documents relating to or reflecting all meetings and communications between Derke J. Price and anyone acting or purporting to act on behalf of the Village of Round Lake Park, Illinois ("VRLP"), including all of VRLP's present and former agents, employees, appointed officials, elected officials and attorneys, and relating to the proposed Groot Industries, Inc. ("Groot") Lake Transfer Station (the "Transfer Station").
2. All documents relating to or reflecting all meetings and communications between Derke J. Price and anyone acting or purporting to act on behalf of Groot, including all of Groot's

present and former shareholders, directors, officers, agents, employees, attorneys, and consultants, and relating to the Transfer Station.

3. All documents relating to or reflecting all meetings and communications between Derke J. Price and anyone acting or purporting to act on behalf of Chicago Bridge & Iron Company ("CBI"), including all of CBI's present and former shareholders, directors, officers, agents, employees, attorneys, and consultants, and relating to the Transfer Station.

4. All documents relating to or reflecting all meetings and communications between Derke J. Price and anyone acting or purporting to act on behalf of The Shaw Group and/or Shaw Environmental, Inc. ("Shaw"), including all of Shaw's present and former shareholders, directors, officers, agents, employees, attorneys, and consultants, and relating to the Transfer Station.

For purposes of this Subpoena, "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.

Failure to comply with this subpoena will subject you to sanctions under 35 Ill. Adm. Code 101.622(g) and 101.802.

Failure to comply with this subpoena will subject you to sanctions under 35 Ill. Adm. Code 101.622(g) and 101.802.

ENTER:

John T. Therriault

John T. Therriault, Assistant Clerk
Pollution Control Board

Date: February 11, 2014

I served this subpoena duces tecum by handing a copy to Derke J. Price

_____ on April 8, 2014.

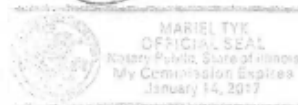
[Signature]

Subscribed and sworn to before me this 8th day of April

2014.

[Signature]

Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the above and foregoing NOTICE OF DEPOSITION to be served on the following, via electronic mail transmission, on this 8th day of April, 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 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

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

For the Round Lake Park Village Board

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

For the Village of Round Lake Park

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

RE: Hearing officer for the Village of Round Lake Park

Page 1 of 1

From: Peter Karlovics [mailto:pkarlovics@aol.com]
Sent: Wednesday, June 19, 2013 3:05 PM
To: Price, Derke
Subject: Re: Hearing officer for the Village of Round Lake Park

Dear Derke:

Groot will be filing its application for hearing on its proposed waste transfer station in Round Lake Park on Friday, June 21, 2013.

The Village would like appoint you as hearing officer, as we previously discussed.

Attached is the previous engagement letter you sent me. Would you be willing to accept appointment under the same conditions as stated in this letter? If not, please send me a new engagement letter.

The Round Lake Park Village Board will be voting on your appointment at the next Village Board meeting on July 2, 2013.

Please let me know at your earliest convenience.

The Law Offices of

Rudolph F. Magna

Peter S. Karlovics

495 N. Riverside, Suite 201

Gurnee, Illinois 60031

Office: (847) 623-5277 Facsimile: (847) 623-5336

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If you received this message in error, please delete the message and advise the sender by reply e-mail or notify us immediately at (847) 623-5277.

EXHIBIT B

<http://mail.aol.com/38466-111/aol-6/en-us/mail/PrintMessage.aspx>

4/9/2014

RE: July 9th

Page 1 of 1

From: Price, Derke <DPrice@ancelglink.com>

To: glenn <glenn@sechenlawgroup.com>; Larry Clark <larrymclark55@sboglobal.net>; chelsten <chelsten@hinshawlaw.com>; 'Peter Karlovics' <pkarlovics@aol.com>

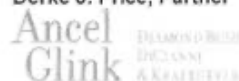
Subject: RE: July 9th

Date: Thu, Jun 27, 2013 11:14 am

Gentlemen:

With my sincerest apologies to all of you--and especially Peter who is out of the office on vacation; I have now been informed by the firm's client, the Village of Hainesville, that it intends to appear and object. Accordingly, since I have not been officially appointed by the Board at this time, the firm has concluded that I must withdraw from service as the Hearing Officer and erect a "chinese wall" with the attorneys in our office that work with Hainesville due to my discussions with Peter. Words cannot express my disappointment and frustration from not being able to work with you all on this matter. Although the conflict was initially cleared back in October, Hainesville--as is it's right--has now changed its corporate mind. I would say that the July 9 meeting is probably unlikely but I leave that to Peter.

Derke J. Price, Partner



1979 N. Mill St., Suite 207

Naperville, IL 60563

Direct Dial: 630.596.4612

Telephone: 630.596.4610

Fax: 630.596.4611

DPrice@ancelglink.com

www.ancelglink.com



EXHIBIT C

AFFIDAVIT OF SERVICE

The undersigned certifies that on April 9, 2014 a copy of the foregoing **Notice of Filing** and **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S MOTION TO QUASH SUBPOENA FOR DEPOSITION OF DERKE J. PRICE** 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

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

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

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

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