

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 RESPONSE
TO RESPONDENT'S MOTION TO QUASH SUBPOENA**

Now comes Petitioner, Timber Creek Homes, Inc. ("TCH"), by its attorneys, Jeep & Blazer, LLC, and hereby submits its Response to the Motion to Quash the Subpoena served on Associated Property Counselors, Inc. ("APC") filed by Respondent Village of Round Lake Park ("VRLP").

I. INTRODUCTION

The Petition for Review in this matter raises issues regarding both individual siting criteria and the fundamental fairness of the siting proceeding. It is well-settled that, "Hearings before the PCB are based exclusively on the record before the [siting authority], except that evidence may be introduced on the fundamental fairness of the [siting authority's] siting procedures where the evidence necessarily is outside the record." *Stop the Mega-Dump v. County Board of De Kalb County*, 2012 IL App (2d) 110579, ¶11 (2012), citing *Land & Lakes Co. v. Pollution Control Board*, 319 Ill.App.3d 41, 48 (3rd Dist. 2000)¹

¹ As it did in its pending Motion to Dismiss the Petition for Review, VRLP again fails to acknowledge contrary dispositive authority, in violation of Rule 3.3(a)(2) of the Illinois Rules of Professional Conduct. There is no mention in VRLP's Motion to Quash of the principle allowing for evidence outside the hearing record in connection with a fundamental fairness claim.

Hyperbole and sniping are no substitute for reasoned legal analysis. Nevertheless, in a desperate effort to avoid discovery on a central issue in this case, VRLP engages in a rambling, disjointed, vituperative and largely incoherent assault on TCH's effort to obtain discovery regarding the VRLP Board majority's contumacious participation in a sham siting hearing.

II. THE SUBPOENA SERVED ON APC SEEKS INFORMATION DIRECTLY RELATED TO TCH's FUNDAMENTAL FAIRNESS CLAIM

The general scope of discovery in Board proceedings is found in 35 Ill. Adm. Code 101.616(a), which provides, in relevant part:

(a) All relevant information and information calculated to lead to relevant information is discoverable, excluding those materials that would be protected from disclosure in the courts of this State pursuant to statute, Supreme Court Rules or common law, and materials protected from disclosure under 35 Ill. Adm. Code 130.

(e) Unless a claim of privilege is asserted, it is not a ground for objection that the testimony of a deponent or person interrogated will be inadmissible at hearing, if the information sought is reasonably calculated to lead to relevant information.

A copy of the subject subpoena is attached hereto as Exhibit A. In summary, the subpoena seeks documents from APC, which VRLP retained for the siting hearing, relating to the scope of that retention and the services provided, and any communications with VRLP and both the siting applicant, Groot Industries, Inc. ("Groot") and several of Groot's retained siting witnesses. Why is this information sought?

The fundamental fairness issue arose during the course of the siting hearing. VRLP's counsel, Glenn Sechen ("Sechen"), indicated that VRLP had already determined that it was "prudent" to site a transfer station, and was proceeding jointly with Groot for approval of that transfer station. (C03214, C03219-03220; 9/25/2013

Hearing Transcript-2 at 98, 103-104) Sechen further acknowledged that VRLP and Groot had found it necessary to site a transfer station for their own business reasons. At that point, counsel for the Solid Waste Agency of Lake County ("SWALCO"), another participant in the siting hearing, noted that VRLP had failed to disclose that it was a co-applicant with Groot. (C03220-03221; 09/25/13 Hearing Transcript-2 at 104-105) None of the Respondents had disclosed prior to that time that VRLP was proceeding jointly with Groot – in effect as an undisclosed co-applicant for siting of the transfer station.

VRLP's complicity with Groot reached its zenith with the report and testimony of Dale Kleszynski ("Kleszynski"), an employee of APC. Kleszynski's report (C02437-C02456) and testimony were in lockstep support of Groot's siting application. Kleszynski admitted that the various operative provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP") governed his activities in this case:

Q. And you're aware that under that Code of Ethics, an appraiser must not advocate the cause or interest of any party or issue, correct?

A. I am absolutely aware of that part of the Code of Ethics, as well as the Uniform Standards.

Q. You're also aware then that an appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions, correct?

A. That is absolutely correct. But that is part of both of the Code of Ethics as well as USPAP.

Q. A couple of more that I think we're going to agree on. You're also aware that an appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice, correct?

A. We would agree on that also.

Q. Here's another one, an appraiser must not communicate assignment results with the intent to mislead or to defraud, correct?

A. That would also be true.

Q. And then finally, an appraiser must not use or communicate a report that is known by the appraiser to be misleading or fraudulent, correct?

A. That is also true.

(10/02/13 Hearing Transcript-1 at 64-65)²

Kleszynski agreed that it was a violation of the USPAP code of ethics for him to advocate any particular position. Kleszynski nevertheless sought to misrepresent the fact that he had been directed by VRLP, as the undisclosed co-applicant acting through Sechen, to generate an "independent" statement supporting Groot's position. Despite his claim that he "volunteered" an opinion (10/02/13 Hearing Transcript-1 at 67), Kleszynski's report in fact confirmed that he was asked to render a separate opinion by his client, and that his report is "specific to the needs of the client", VRLP. (10/02/13 Hearing Transcript-1 at 70-74) Sechen never told Kleszynski that the contents of his report were inconsistent with VRLP's needs. (10/02/13 Hearing Transcript-1 at 87) On the contrary, Kleszynski was given an assignment in this case, and Sechen, on behalf of VRLP, communicated that assignment to Kleszynski. (10/02/13 Hearing Transcript-1 at 108)

The foregoing facts amply demonstrate why VRLP is so anxious to avoid discovery directed at APC. APC, through Kleszynski and at Sechen's direction, was an integral part of VRLP's joint effort with Groot. The information sought in the subpoena at issue relates directly to the scope, nature and extent of Kleszynski's role in, and knowledge of, that effort.

Moreover, contrary to all of the Respondents' misrepresentations, counsel for TCH raised the issue of fundamental fairness, including bias, pre-judgment, and VRLP's previously undisclosed status as a co-applicant, during Sechen's cross-examination of one of TCH's witnesses. Counsel specifically confirmed that the issue was being raised so that it would not be waived. The Hearing Officer acknowledged that he had no

² This transcript is missing from the Record filed by VRLP. Copies of the cited pages of this transcript are therefore attached hereto as Exhibit B.

authority to address the issue. (C03234, C03236-03237; 09/25/13 Hearing Transcript-2 at 118, 120-121) The fundamental fairness issue was also a significant subject of TCH's post-hearing proposed Findings and Conclusions, (C04190-04194), and TCH's assertion of the issue was discussed by the Hearing Officer in his proposed findings and conclusions. (C04355.037)

III. VRLP PROVIDES NO COGNIZABLE BASIS FOR QUASHING THE SUBPOENA

35 Ill.Adm.Code 101.622 provides that, "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.**" [Emphasis added]³ VRLP does not cite to this or any other provision of the Board regulations relating to discovery. Instead, VRLP variously says that "TCH is engaged in a fishing expedition", "TCH hopes to exceed the scope of issues properly allowed in appeals of local siting approvals", "documents sought by TCH exceed the scope of these proceedings", "TCH is merely engaged in an expensive and what it hopes to be a long fishing expedition"; and the amusing, albeit ridiculous, "TCH fishing expedition has boarded its ships, left the harbor under full sail and is deploying its fishing nets to see what it might catch". (VRLP Motion at ¶¶4, 5, 8, 13, 14)

The sole "basis" for these assertions is VRLP's pending Motion to Dismiss, and its claim of inadequate fact pleading. (VRLP Motion at ¶¶3, 4, 11, 12) As noted in TCH's Consolidated Response to the Respondents' Motions to Dismiss, counsel for all Respondents violated Rule 3.3(a)(2) of the Illinois Rules of Professional Conduct by failing to address, or even mention, *American Disposal Services of Illinois, Inc. v. County Board of McLean County, et al.*, 2012 WL 586817, PCB 11-60 (February 16,

³ A more general statement of the hearing officer's authority is found in 35 Ill.Adm.Code 101.614, which provides that, "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."

2012), in which the Board rejected the identical arguments raised by Respondents here. Respondents compound their misconduct by their “treatment” of *American Disposal* in their recently filed Replies in Support of their Motions. VRLP and the VRLP Board completely ignore the Board’s operative language, and Groot “deals” with the case by again not mentioning it at all.

IV. CONCLUSION

The only “basis” asserted in support of the Motion to Quash is wholly improper under the controlling case law and the rules governing discovery in Board proceedings. The information sought from APC relates directly to TCH’s fundamental fairness claim. TCH therefore requests that VRLP’s Motion be denied.

Respectfully submitted,
Timber Creek Homes, Inc.

By: 
One of its attorneys

Michael S. Blazer (ARDC No. 6183002)
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EXHIBIT A

Before the Illinois Pollution Control Board

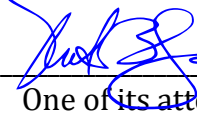
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LAKE PARK VILLAGE BOARD and GROOT)	
INDUSTRIES, INC.,)	
)	
Respondents)	

NOTICE OF DEPOSITION – DOCUMENTS ONLY

TO: See attached Certificate of Service

PLEASE TAKE NOTICE that the undersigned will, at 10:00 a.m. on March 12, 2014, at Jeep & Blazer, LLC, 24 N. Hillside Avenue, Suite A, Hillside, IL 60162, take the deposition (documents only) of Associated Property Counselors, Ltd., pursuant to subpoena, a copy of which is attached hereto, at which time and place you may appear.

Respectfully submitted,
Timber Creek Homes, Inc.

By: 
One of its attorneys

Michael S. Blazer (ARDC No. 6183002)
Jeffery D. Jeep (ARDC No. 6182830)
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LAKE PARK VILLAGE BOARD and GROOT)	
INDUSTRIES, INC.,)	
)	
Respondents)	

SUBPOENA DUCES TECUM

TO: Associated Property Counselors, Ltd.
c/o Dale J. Kleszynski
15028 S. Cicero, Unit L
Oak Forest, IL. 60452

Pursuant to Section 5(e) of the Environmental Protection Act (415 ILCS 5/5(e) (2006)) and 35 Ill. Adm. Code 101, Subpart F, you are ordered to produce the documents designated below in connection with the above-captioned matter at 10:00 a.m. on March 12, 2014 at Jeep & Blazer, LLC, 24 N. Hillside Avenue, Suite A, Hillside, IL 60162.

DOCUMENTS TO BE PRODUCED

1. All documents relating to or reflecting the retention of Dale Kleszynski ("Kleszynski") and Associated Property Counselors, Ltd. ("APC") by or on behalf of the Village of Round Lake Park, Illinois ("VRLP"), in connection with the proposed Groot Industries, Inc. Lake Transfer Station, including, but not limited to, all documents relating to or reflecting the scope of Kleszynski's and APC's retention.

2. All documents relating to or reflecting all services performed by Kleszynski and ATC from the date of their retention by or on behalf of VRLP to the present, including, but not limited to, all invoices or statements for services rendered.

3. All documents relating to or reflecting all meetings and communications between anyone acting or purporting to act on behalf of VRLP, including all of VRLP's present and former agents, employees, appointed officials, elected officials and attorneys on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

4. All documents relating to or reflecting all meetings and communications between anyone acting or purporting to act on behalf of Groot Industries, Inc. ("Groot"), including all of Groot's present and former shareholders, directors, officers, agents, employees, attorneys, and consultants on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

5. All documents relating to or reflecting all meetings and communications between 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 on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

6. All documents relating to or reflecting all meetings and communications between 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 on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the

other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

7. All documents relating to or reflecting all meetings and communications between anyone acting or purporting to act on behalf of Poletti and Associates, Inc. ("Poletti"), including all of Poletti's present and former shareholders, directors, officers, agents, employees, attorneys, and consultants on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

8. All documents relating to or reflecting all meetings and communications between anyone acting or purporting to act on behalf of The Lannert Group ("Lannert"), including all of Lannert's present and former shareholders, directors, officers, agents, employees, attorneys, and consultants on the one hand, and all present and former shareholders, directors, officers, agents, employees, and attorneys of APC and Kleszynski on the other hand, from the date of APC's and Kleszynski's retention by or on behalf of VRLP to the present.

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.


ENTER:



John T. Therriault, Assistant Clerk
Pollution Control Board

Date: February 11, 2014

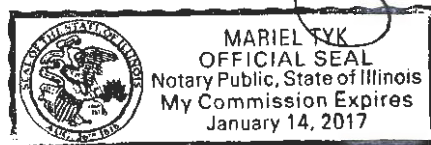
I served this subpoena duces tecum by handing a copy to Dale J. Keszynski
on February 13, 2014.



Gary McDaniels

Subscribed and sworn to before me this 14th day of February,
2014.



Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the foregoing NOTICE OF DEPOSITION – DOCUMENTS ONLY to be served on the following, via electronic mail transmission, on this 14th day of February, 2014:

Hearing Officer

Bradley P. Halloran
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
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For Groot Industries, Inc.

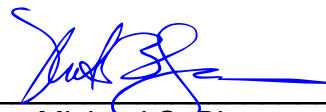
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For the Village of Round Lake Park

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Michael S. Blazer
One of the attorneys for
Petitioner

EXHIBIT B

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BEFORE THE VILLAGE BOARD
OF THE VILLAGE OF ROUND LAKE PARK
SITTING AS A POLLUTION CONTROL FACILITY
SITING AUTHORITY

IN RE: APPLICATION FOR LOCAL SITING)
APPROVAL FOR GROOT INDUSTRIES) 03-01
LAKE TRANSFER STATION,)

Transcript of proceedings at the
hearing of the above-entitled cause on the 2nd day
of October, 2013, at the hour of 12:00 p.m.
(Concluded at 3:10 p.m.)

REPORTED BY: JENNIFER A. LANG
LICENSE NO.: 084-003293

1 APPEARANCES:

2 SCHIROTT, LUETKEHANS & GARNER, LLC,

3 BY: MR. PHILLIP A. LUETKEHANS

4 The Hearing Officer;

5

6 HINSHAW & CULBERTSON,

7 BY: MR. RICHARD S. PORTER

8 On behalf of Groot Industries;

9

10 THE LAW OFFICES OF RUDOLPH F. MAGNA,

11 BY: MR. PETER S. KARLOVICS

12 On behalf of Board of Trustees of the

13 Village of Round Lake Park;

14

15 THE SECHEN LAW GROUP, P.C.,

16 BY: MR. GLENN C. SECHEN

17 On behalf of Village of Round Lake Park;

18

19

20

21

22

23

24

1 APPEARANCES (CONT'D):

2 TRESSLER, LLP,

3 BY: MR. STEPHEN T. GROSSMARK

4 On behalf of the Village of Round Lake;

5

6 JEEP & BLAZER, LLC,

7 BY: MR. MICHAEL S. BLAZER

8 On behalf of Timber Creek

9 Homes, Inc.;

10

11 MR. LARRY M. CLARK

12 On behalf of the Solid Waste Agency

13 of Lake County, Illinois.

14

15 MR. ROBERT CERRETTI, SR.,

16 Village of Round Lake Park Trustee;

17 MS. JEAN McCUE,

18 Village of Round Lake Park Trustee;

19 And other Trustee's previously listed.

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1 Q. As I understand it, as indicated in your
2 report, your assignment was completed in accordance
3 or in compliance with USPAP, correct?

4 A. It was.

5 Q. And that's the Uniform Standards of
6 Professional Appraisal Practice and the Code of
7 Ethics of the Appraisal Institute, correct?

8 A. That is correct.

9 Q. And you're aware that under that Code of
10 Ethics, an appraiser must not advocate the cause or
11 interest of any party or issue, correct?

12 A. I am absolutely aware of that part of the
13 Code of Ethics, as well as the Uniform Standards.

14 Q. You're also aware then that an appraiser
15 must not accept an assignment that includes the
16 reporting of predetermined opinions and conclusions,
17 correct?

18 A. That is absolutely correct. But that is
19 part of both of the Code of Ethics as well as USPAP.

20 Q. A couple of more that I think we're going
21 to agree on.

22 You're also aware that an appraiser
23 must not misrepresent his or her role when providing
24 valuation services that are outside of appraisal

1 practice, correct?

2 A. We would agree on that also.

3 Q. Here's another one, an appraiser must not
4 communicate assignment results with the intent to
5 mislead or to defraud, correct?

6 A. That would also be true.

7 Q. And then finally, an appraiser must not
8 use or communicate a report that is known by the
9 appraiser to be misleading or fraudulent, correct?

10 A. That is also true.

11 Q. You testified that your assignment in this
12 matter was to act in the capacity of a review
13 appraiser to determine if Poletti rendered a
14 credible opinion, did I restate your testimony
15 correctly?

16 A. I think you did.

17 Q. And the review you conducted was under
18 Standard 3 of USPAP, correct?

19 A. That is correct.

20 Q. When did your assignment expand to include
21 a critique of the MaRous report?

22 A. Upon receipt of the MaRous report.

23 Q. On September 12th?

24 A. I don't remember the day that that was

1 A. Well --

2 Q. Correct.

3 A. I presume that it was acting on behalf of
4 the Village of Round Lake Park, but that was the
5 question he asked me, he asked me to review the
6 MaRous document.

7 Q. When did your assignment expand beyond a
8 review of the Poletti report to include your own
9 independent opinion regarding impact on value to the
10 surrounding area?

11 A. I consider that to be part of the review
12 or part of the review. I don't think I was ever
13 truly ever asked specifically to formulate that
14 opinion, but offered that opinion after completing
15 my work. It was sort of an add on, so to speak,
16 because I was convinced after doing the work that I
17 had done that the conclusion was solid.

18 Q. And what did Mr. Sechen tell you when he
19 saw your opinion regarding your independent opinion
20 regarding the value of surrounding property?

21 A. He was okay with it.

22 Q. He was okay with it?

23 A. Yeah.

24 Q. What did he tell you?

1 an appraiser is hired to formulate an opinion and
2 they claim or are doing it in accordance with the
3 professional ethics and the Uniform Standards of
4 Professional Appraisal Practice, independence of
5 that opinion is presumed if the appraiser is doing
6 their job correctly, and that's what occurred in
7 this instance.

8 Q. Let's try it this way: One of your
9 opinions, I think as we discussed, is that the
10 subject facility will not have an impact on the
11 value of surrounding property, correct?

12 A. That is my opinion.

13 Q. And you have indicated in your report,
14 it's on page 11, last paragraph, in addition to
15 reviewing the Poletti report, the client requested
16 that I use the data in the Poletti report and other
17 information to formulate an independent opinion and
18 determine if the Groot Industries Inc. Lake Transfer
19 Station is located to minimize the effect on the
20 value of surrounding property; did I read that
21 correctly?

22 A. You did.

23 Q. So it sounds to me, based on what you
24 wrote in your report, that rather than volunteering

1 your independent opinion, in fact, the client asked
2 to you do that; isn't that right?

3 A. Actually, I guess I would have to answer
4 that yes and no. And whether or not that's artfully
5 stated in the body of my report, under the uniform
6 standards, for example, I am entitled formulate that
7 opinion and I elected to do so.

8 Q. But that's not what you said in your
9 report, isn't it?

10 A. My report says that they requested.

11 Q. And who requested it?

12 A. In the safety of -- no one requested it
13 specifically. I formulated that opinion independent
14 after doing my work.

15 Q. So that's another typo?

16 A. I wouldn't consider it to be a typo, I
17 would consider it if I had, like many of these
18 documents, if I had the opportunity to review it
19 after a question such as that, I might have written
20 it differently.

21 Q. But you reviewed this report with
22 Mr. Sechen multiple times, right?

23 A. Right, I reviewed the report with
24 Mr. Sechen one time and I reviewed it internally

1 multiple times.

2 Q. And he certainly expressed no disagreement
3 with the statement that your client had asked you to
4 generate an independent opinion regarding
5 minimization on the effect -- excuse me, minimizing
6 the effect on value of surrounding property,
7 correct?

8 A. I would agree with you that he did not
9 express any objection to my formulating that
10 opinion.

11 Q. You reference in the same paragraph that
12 you were asked by your client to use the data in the
13 Poletti report and other information to formulate
14 your independent opinion, correct?

15 A. Yes.

16 Q. Okay. What other information were you
17 asked to look at?

18 A. Well, again, that portion of the document
19 suffers from the inartful, my inartful authoring of
20 that terminology. I elected to use the data that I
21 looked at from the Multiple Listing Service as well
22 as the public record search that I did to verify
23 that information.

24 Q. Is this paragraph stock language that you

1 use in every report?

2 A. I don't think it's stock language. I
3 just, as I said, I think it's not as artfully
4 written as I would like to have done in the safety
5 of retrospect.

6 Q. How many other Poletti reports have you
7 reviewed in your career?

8 A. None.

9 Q. So when we see a reference here in this
10 paragraph to using the data in the Poletti report,
11 this is the only time you have ever used that
12 language, correct?

13 A. Yes.

14 Q. And then further in the same paragraph,
15 Mr. Kleszynski, you say, further the client
16 requested that I determine using the information in
17 the Poletti report and other information, if the
18 Groot Lake Industries Transfer Station will have an
19 impact on nearby properties. Did I read that
20 correctly?

21 A. Yes.

22 Q. Is that also inartful drafting?

23 A. I would say yes.

24 Q. Could you turn to page 14 of your report,

1 paragraph, the fourth paragraph?

2 A. Yes.

3 Q. You say here, the information contained in
4 the report is specific to the needs of the client.
5 Did I read that correctly?

6 A. Yes.

7 Q. And the client is the Village of Round
8 Lake Park, correct?

9 A. Yes.

10 Q. And the Village's needs in the context of
11 your report were expressed to you, correct?

12 A. No. The Village's needs were not directed
13 to me. What this underlying assumption and limiting
14 condition says is that the information contained in
15 the report is specific to the needs of the client as
16 it -- well, and it's intended to imply that it's
17 tied to the scope of work that was -- that was --
18 and the valuation question that I was asked to
19 answer or asked to address.

20 Q. And the needs of your client are reflected
21 in your report, correct?

22 A. The needs of the client are reflected in
23 my report to the extent that it references the data
24 utilized and the methodologies applied.

1 transfer station project in Illinois?

2 A. No.

3 Q. So you limited yourself exclusively to
4 what Poletti looked at, correct?

5 A. Yes.

6 Q. And your conversations with Mr. Sechen and
7 the context of reviewing the two drafts of your
8 report that we're aware of here, did he ever tell
9 you that the contents of your report were not
10 consistent with the needs of your mutual client, the
11 Village of Round Lake Park?

12 A. That discussion never occurred.

13 Q. He never told you that?

14 A. No.

15 Q. And did you ever telling Mr. Sechen that
16 you never reviewed any other reports for any other
17 transfer station projects in Illinois?

18 A. That discussion never occurred.

19 Q. Did he ask you if you reviewed any other
20 reports for any other transfer station in Illinois?

21 A. No.

22 Q. Let's go to your report page 2, third
23 paragraph. Are you there on page 2, Mr. Kleszynski?

24 A. I am.

1 answered because he has said he never spoke to
2 Poletti at all, so it really doesn't get us
3 anywhere.

4 MR. BLAZER: Understood.

5 BY MR. BLAZER:

6 Q. You had an assignment to accomplish in
7 this case, correct, Mr. Kleszynski?

8 A. Tell me what you mean by "accomplish."
9 That implies to me that I set out with a specific
10 goal.

11 Q. You were given an assignment in this case,
12 correct?

13 A. Yes, I was asked a valuation question --

14 Q. The "yes" is all I needed.

15 And that assignment was communicated
16 to you by Mr. Sechen on behalf of the Village,
17 correct?

18 A. Yes.

19 Q. Let's go back to TCH Exhibit 47, your
20 rebuttal report that you did for my firm two years
21 ago.

22 Do you recall that Ms. McGarr at
23 Integra had criticized your initial report, TCH 45?

24 A. Yeah, there was a lot of criticism going

1 STATE OF ILLINOIS)
2 COUNTY OF L A K E) SS.

3

4 Jennifer A. Lang, C.S.R., being first
5 duly sworn says that she is a court reporter doing
6 business in the State of Illinois; and that she
7 reported in shorthand the proceedings of said
8 hearing, and that the foregoing is a true and
9 correct transcript of her shorthand notes so taken
10 as aforesaid, and contains the proceedings given at
11 said hearing.

12

13

14

Certified Shorthand Reporter

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO QUASH SUBPOENA to be served on the following, via electronic mail transmission, on this 19th day of February, 2014:

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Michael S. Blazer
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Petitioner