

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	)	

**NOTICE OF FILING**

To: see service list

**PLEASE TAKE NOTICE** that on or before March 17, 2014 at 4:30 p.m., I filed the attached Motion to Make Specific with the Clerk of the Illinois Pollution Control Board, copies of which are hereby served upon you by email.

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

**Certificate of Service**

The undersigned hereby attorney certifies that on the 17th 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:

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<b>TIMBER CREEK HOMES, INC.,</b>	)	
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<b>Petitioner</b>	)	
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<b>v.</b>	)	<b>No. PCB 2014-099</b>
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<b>and GROOT INDUSTRIES, INC.,</b>	)	
	)	
<b>Respondents</b>	)	

**VILLAGE OF ROUND LAKE PARK's MOTION TO MAKE SPECIFIC**

The Village of Round Lake Park (sometimes referred to as Village Staff, RLP or VRLP) hereby moves that the Board and the Hearing Officer make specific and detailed rulings in the anticipated future orders dealing with the discovery issues in this case and in support thereof states as follows:

**BACKGROUND:**

Prior to the filing of the siting application ("Application") on June 21, 2013 Counsel for RLP 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 broke off all contact with the Village Board. 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 retained several consulting experts. Mr. Kleszynski was one of those consulting experts, until RLP Counsel decided to call him to testify, at which point, Mr. Kleszynski became a Testifying Expert. Timber Creek Homes subpoenaed Mr. Kleszynski's file and RLP's motion to quash that subpoena was denied by the Hearing Officer. The Testifying Expert's file can contain no more than information regarding the underlying criterion on which he testified. Likewise, the other consulting experts presumably have files containing information almost exclusively on the underlying criteria on which they consulted with RLP Counsel in preparation for and at the hearings.

TCH has filed interrogatories with a corresponding production request essentially asking for an outline of and material pertaining to every conversation RLP Counsel had pertaining to the Applicant and the Transfer Station over a period of many years. While the aforesaid is simplified in form, that is what TCH has requested in its interrogatories and production request which have been filed.

**ISSUES:**

Sorting through potentially thousands of pages documents produced by various counsel in this matter is a huge task in the middle of an ethical mine field. What can be produced by RLP and upon the order of what body will be determined in consultation with ethics counsel. RLP wishes to fully cooperate in the lawful discovery process. Simply allowing access to an attorney's file may be the approach sought but ethical considerations must prevail. Privileged material should not be produced or even requested.

Based on the Hearing Officer's ruling on the motion to quash, RLP asks the Board to make specific rulings leaving no doubt what discovery must be provided. Is discovery limited to fundamental fairness issues? Does allowed discovery include information related to Counsel's preparation for hearing? Does that include information that regarding the underlying criteria and the analysis thereof? Is communication to or from RLP Counsel and his consulting experts included? What about such communication to or from the experts including the one who later testified? What about other material typically within Attorney Work Product material? What about communications with the client? Untold hours could be spent just determining the number of such communications and other potentially privileged material detailing them alone.

**WHEREFORE**, Respondent, the Village of Round Lake Park, respectfully requests that the Pollution Control Board make its rulings as specific as possible in order that this case may be completed within the statutorily mandated time and further to assist counsel in determining what can actually be ethically produced and how.

Respectfully submitted,  
Village of Round Lake Park

By *Glenn C. Sechen*  
One of Its Attorneys

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