

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 MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER ORDER

Now comes Petitioner, Timber Creek Homes, Inc. (“TCH”), by its attorneys, Jeep & Blazer, LLC, and pursuant to 35 Ill.Adm.Code 101.512 and 101.616(e) moves this Board for an Expedited Review of Hearing Officer Halloran’s March 20, 2014 Order limiting discovery in this matter, and in support thereof states:

1. TCH filed its Petition for Review (the “Petition”) asking this Board to review a December 12, 2013 decision of the Village of Round Lake Park (“VRLP”) and the Round Lake Park Village Board (the “Village Board”). That decision granted siting, with conditions, for a waste transfer station to Groot Industries, Inc. (“Groot”). This Board accepted the Petition for hearing in an order dated January 23, 2014.

2. All three Respondents filed motions to strike and dismiss the Petition on February 4 and February 6, 2014. The motions all asserted the same arguments – that the Petition is factually inadequate, and that TCH failed to allege that it preserved its fundamental fairness claim by raising it in the siting hearing. TCH filed its Consolidated Response to the motions on February 11, 2014. All three Respondents filed replies on February 18, 2014.

3. On February 3, 2014, Groot submitted a limited waiver of the decision deadline in this matter, extending the deadline to August 21, 2014. Because of the short time frame, and the need to conduct the hearing in this matter sufficiently in advance of the decision deadline,

discovery had to be addressed while the motions to dismiss were pending. As a result, on February 4, 2014 Hearing Officer Halloran entered an Order memorializing the parties' agreement regarding discovery and post-hearing briefing. A copy of that Order is attached hereto as Exhibit A. Among other things, the February 4 Order reflected the parties' agreement that responses to all written discovery were due by March 15, 2014, and all discovery, including depositions, must be completed by May 9, 2014.

4. TCH had already served interrogatories and requests for production of documents on all three Respondents on January 31, 2014. Copies of those discovery requests are attached hereto as Exhibits B through E. TCH also served requests to admit the genuineness of certain documents on VRLP and the Village Board.

5. Despite the requirements of the February 4 scheduling order, and their agreement to the dates set forth in that order, all three Respondents filed objections and motions to strike TCH's interrogatories and requests for production on February 26, 2014. Those objections raise three primary assertions:

- a. That the Petition was factually deficient (the same arguments made in the pending motions to dismiss) and did not support any discovery, and particularly any discovery predating the filing of the Groot's siting application with respect to TCH's fundamental fairness claim.
- b. That the discovery requests were overly broad, in that they seek information dating back to 2008, and also seek information that is not limited to Groot's waste transfer station.
- c. That the requests violate a number of privileges (although no specific items subject to any purportedly applicable privilege were identified).

6. TCH responded to all of the objections on February 26, 2014. Respondents replied on March 3, 2014.

7. TCH also served a subpoena *duces tecum* on Associated Property Counselors (“APC”) and its principal, Dale Kleszynski (“Kleszynski”), on February 14, 2014. A copy of the subpoena is attached hereto as Exhibit F. APC and Kleszynski were hired by VRLP for the siting hearing, and Kleszynski issued a report and testified at the hearing. The subpoena sought documents relating to the scope of that retention and the services provided, and any communications with VRLP and both Groot and several of Groot’s retained siting witnesses.

8. VRLP filed a motion to quash the subpoena on February 18, 2014, raising substantially the same arguments that were the subjects of the objections to TCH’s interrogatories and production requests. TCH responded to the motion on February 19, and VRLP replied on February 24. Hearing Officer Halloran denied the motion to quash on March 4, 2014. A copy of that Order is attached hereto as Exhibit G.

9. In his Order denying the Motion to Quash, Hearing Officer Halloran pointed out the accepted legal principle that:

[T]he Board will hear new evidence relevant to the fundamental fairness of the proceedings where such evidence lies outside the record, including pre-filing contacts. See *Land and Lakes Co. v. PCB*, 319 Ill. App. 3d 41, 48, 743 N.E.2d 188, 194 (3d Dist. 2000). Pre-filing contacts may be probative of prejudgment of adjudicative facts, which is an element to be considered in assessing a fundamental fairness allegation. *American Bottom Conservancy (ABC) v. Village of Fairmont City*, PCB 00-200, slip op. at 6 (Oct. 19, 2000).

(March 4, 2014 Order at 2-3)

10. Thereafter, March 15, the deadline for responses to written discovery, came and went without any responses to the interrogatories and production requests from any of the Respondents.

11. On March 20, 2014, the Board entered its Order denying Respondents’ Motions to Dismiss. The Board found that the Petition adequately states claims with respect to both the individual siting criteria and fundamental fairness. Shortly thereafter, Hearing Officer Halloran

issued an Order ruling on Respondents' objections to TCH's discovery requests (the "Discovery Order"). A copy of the Discovery Order is attached hereto as Exhibit H. That is the Order that is the subject of this Motion.

12. The Discovery Order dramatically limits the scope of TCH's discovery:

On December 12, 2013, the Village and the Village Board granted siting, with conditions, for a waste transfer station located at 201 Porter Drive in Round Lake Park, Lake County, to Groot. The above siting decision is the issue on appeal, not other transfer stations or facilities owned or operated by Groot. Furthermore, TCH's seemingly arbitrary date of March 1, 2008 to which pre-filing information is sought is not reasonable. It appears that TCH has chosen this date to retrieve information regarding Groot facilities other than the transfer station at issue on appeal.

Respondents' objections to TCH's discovery requests that seek information pertaining to Groot's other transfer stations or facilities are sustained.

It appears that TCH first became aware of its theory of collusion during the siting hearing, when Mr. Kleszynski was being cross-examined. TCH Resp. at 3. To that end, I find that a reasonable time period to seek pre-filing contacts is the day that Mr. Kleszynski was retained by the Village to assist with the transfer station that is the subject of this appeal, to June 21, 2013, the date the siting application was filed. The date of Mr. Kleszynski's retention is not readily apparent from the record or the pleadings.

(Discovery Order at 5)

13. It is important in the first instance to reiterate the well-settled principles regarding the scope of review in siting appeals. "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.** [Emphasis added]" *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)

14. Most important in the present context, evidence of pre-filing collusion is directly relevant to a fundamental fairness claim. *Land & Lakes, supra*, 319 Ill.App.3d at 49

15. Notably, VRLP and the Village Board have in fact responded to one element of TCH's discovery – the Requests to Admit the genuineness of certain Village Board meeting minutes noted above. First, the Requests to Admit encompass the period from March 11, 2008 through January 15, 2013. Yet despite Respondents' complaints about pre-hearing discovery and overbreadth, VRLP and the Village Board did not object to the scope of the Requests. Copies of the Responses to the Request to Admit, admitting the genuineness of all the Village Board meeting minutes, are attached hereto as Exhibit I.

16. Most important, those meeting minutes indicate that Respondents' collusive scheme began some time in 2008, and encompassed three Groot facilities to be approved, built and operated in VRLP – a truck terminal/maintenance facility, a construction and demolition debris recycling facility, and the subject waste transfer station.

17. More specifically, the meeting minutes demonstrate, among other things, some of the following "highlights":

- a. Some time prior to September 2, 2008, Jean McCue ("McCue"), VRLP's then Mayor and a current Village Board member, met with Groot, "who is interested in putting a transfer station in our town". (September 2, 2008 Village Board Meeting Minutes, Request to Admit ¶2)
- b. On September 16, 2008, Groot made a presentation to the Village Board regarding "putting in a transfer station in Round Lake Park." All Village Board members, including McCue, approved a vote "expressing interest for investigating further into the transfer station for the Village of Round Lake Park". Groot confirmed that it "already found a location" in VRLP. (September 2, 2008 Village Board Meeting Minutes, Request to Admit ¶3)

- c. On October 21, 2008, McCue spoke to a Groot representative requesting “an update on the transfer station”. (October 21, 2008 Village Board Meeting Minutes, Request to Admit ¶4)
- d. On August 11, 2009, Groot made another presentation to the Village Board. (August 11, 2009 Village Board Meeting Minutes, Request to Admit ¶6)
- e. On November 3, 2009, the Village Board approved a request by Groot for a special use permit to establish a truck terminal and maintenance facility in VRLP. (November 3, 2009 Village Board Meeting Minutes, Request to Admit ¶8)
- f. McCue thereafter continued to have private, personal contacts with Groot regarding its activities in VRLP. (December 8, 2009, January 19, 2010 and February 16, 2010 Village Board Meeting Minutes, Request to Admit ¶¶9, 10, 11)
- g. An June 7, 2011, the Village Board approved Groot’s request for an amendment to the VRLP Zoning Ordinance allowing the Village Board, without a hearing, to extend the existing special use permit to a contiguous parcel of property owned by the same owner. (April 5, 2011 Village Board Meeting Minutes, Request to Admit ¶13)
- h. On December 13, 2011, during discussions about the host agreement being negotiated with Groot, McCue asked the Village Board “if they wanted to take a tough ground and try and get more money **and take a chance on them not having a transfer station** and not having a scale for the police department, or do we want to take something which is better than nothing **and have them in the town** and deal with the next step. [Emphasis

added]" (December 13, 2011 Village Board Meeting Minutes, Request to Admit ¶14)

- i. On March 13, 2012, during discussions regarding a construction and demolition debris recycling facility (the "C&D Facility") to be established by Groot in VRLP, McCue reported that she "struck a verbal deal with Groot" regarding the host agreement for the C&D Facility. (March 13, 2012 Village Board Meeting Minutes, Request to Admit ¶17)
- j. On May 15, 2012, the Village Board amended its zoning code in order to allow Groot's C&D Facility operations to commence without any further hearings. (May 15, 2012 Village Board Meeting Minutes, Request to Admit ¶21)
- k. On October 9, 2012, during a discussion about negotiations for the transfer station host agreement, the Village Board acknowledged that, "In order to get things done in a timely fashion and **make this a reality by next operating season...**they don't want to push too far and end up losing everything. [Emphasis added]" (October 9, 2012 Village Board Meeting Minutes, Request to Admit ¶24)

18. The nature and extent of the agreement among the Respondents, giving rise to the fundamental fairness claim, became clear 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) Confirming what is reflected in the above Village Board meeting minutes, 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.

19. VRLP's complicity with Groot reached its zenith with Kleszynski's report and testimony. Kleszynski's report (C02437-C02456) and testimony were in lockstep support of Groot's siting application. Kleszynski nevertheless 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.

(C3742.064-C3742.05; 10/02/13 Hearing Transcript-1 at 64-65)

20. Kleszynski agreed that it was a violation of the USPAP code of ethics for him to advocate any particular position. Because of that preclusion, Kleszynski 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 (C3742.067; 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. (C3742.070-C3742.074; 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. (C3742.087; 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. (C3742.108; 10/02/13 Hearing Transcript-1 at 108)

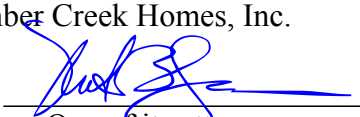
21. Counsel for TCH raised the issue of fundamental fairness, including bias, pre-judgment, and VRLP's previously undisclosed status as a co-applicant, during Sechen's cross-examination of one of TCH's witnesses. Counsel specifically confirmed that the issue was being raised so that it would not be waived.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

22. Fundamental fairness claims are often raised, and routinely rejected. It is rare, however, to be presented with the depth and volume of evidence of collusion such as that set forth above. Respondents' collusive scheme substantially predates the filing of Groot's siting application, and was apparently hatched years before, in the context of VRLP's agreement to approve all of Groot's facilities. But the Hearing Officer's arbitrary limitation of discovery, which is contrary to both the law and the facts of this case as determined to date, will preclude a fair inquiry into the substance and extent of that scheme. The discovery limitation will result in substantial and irreparable prejudice to TCH, and an inability to obtain a full and fair hearing before this Board.

23. Further, given the current expedited schedule and limited time before the decision deadline, an expedited decision is necessary in order to allow adequate time to assess the information that should be produced.

24. For all of the foregoing reasons, TCH requests that the Discovery Order be reversed, and that Respondents be order to immediately provide full and complete responses to TCH's interrogatories and requests for production.

Respectfully submitted,
Timber Creek Homes, Inc.

By: 
One of its attorneys

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CERTIFICATION

Under penalties as provided by §1-109 of the Illinois Code of Civil Procedure, the undersigned hereby certifies that he is one of the attorneys for Timber Creek Homes, Inc., the Petitioner herein, and that he has read the above and foregoing PETITIONER'S MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER ORDER and knows the contents thereof, and the same are true to the best of his knowledge, information and belief.



Michael S. Blazer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER ORDER to be served on the following, via electronic mail transmission, on this 20th day of March, 2014:

Hearing Officer

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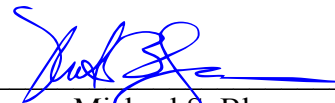
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Michael S. Blazer
One of the attorneys for
Petitioner

EXHIBIT A

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FEB 04 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

February 4, 2014

TIMBER CREEK HOMES, INC.,)
)
 Petitioner,)
)
 v.)
)
 VILLAGE OF ROUND LAKE PARK,)
 ROUND LAKE PARK VILLAGE BOARD)
 and GROOT INDUSTRIES, INC.,)
)
 Respondents.)

PCB 14-99
 (Pollution Control Facility
 Siting Appeal)



HEARING OFFICER ORDER

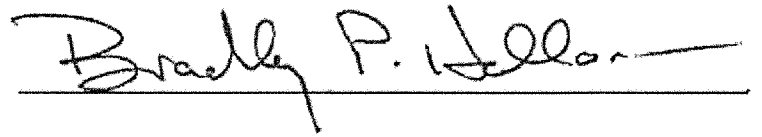
On February 3, 2014, the parties submitted an agreed and proposed discovery schedule based on a June 2, 2014 hearing. The discovery schedule is accepted to the extent as follows.

All written discovery must be served on or before February 14, 2014. All responses to written discovery must be served on or before March 15, 2014. All discovery, including depositions, must be completed on or before May 9, 2014. All prehearing motions, including motions *in limine*, must be filed on or before May 12, 2014. All responses to prehearing motions must be filed on or before 12:00 p.m. on May 15, 2014. The mailbox rule does not apply.

The parties also agreed to a post-hearing briefing schedule. Assuming the transcript will be filed on or before June 12, 2014, the petitioner's brief is due to be filed on or before June 23, 2014. The respondents' response briefs are due to be filed on or before July 3, 2014. The petitioner's reply is due to be filed on or before July 10, 2014. The mailbox rule does not apply. The record closes on July 10, 2014.

The parties or their legal representatives are directed to appear at a telephonic status conference with the hearing officer on February 11, 2014, at 9:30 a.m. The telephonic status conference must be initiated by the petitioner, but each party is nonetheless responsible for its own appearance. At the conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on February 4, 2014, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on February 4, 2014:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
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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 SET OF INTERROGATORIES TO
GROOT INDUSTRIES, INC.**

Now comes Petitioner, Timber Creek Homes, Inc. ("TCH"), by its attorneys, Jeep & Blazer, LLC, and pursuant to 35 IAC 101.616, hereby propounds upon Respondent, Groot Industries, Inc. ("Groot"), 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 Groot to any member of the Round Lake Park Village Board (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 the Village of Round Lake Park ("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 Groot and any 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 Devin Moose.

ANSWER:

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

ANSWER:

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

ANSWER:

Respectfully submitted,
Timber Creek Homes, Inc.

By: 
One of its attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S FIRST SET OF INTERROGATORIES TO GROOT INDUSTRIES, INC. to be served on the following, via electronic mail transmission, on this 1st day of February, 2014:

Hearing Officer

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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 REQUEST FOR PRODUCTION OF DOCUMENTS FROM
GROOT INDUSTRIES, INC.**

Now comes Petitioner, Timber Creek Homes, Inc. ("TCH"), by its attorneys, Jeep & Blazer, LLC, and pursuant to 35 IAC 101.616, hereby requests that Respondent Groot Industries, Inc. ("Groot"), 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 Groot and the Village of Round Lake Park (“VRLP”).

2. All documents relating to or reflecting all meetings, conversations, communications and contacts between Groot and any member of the Round Lake Park Village Board (the “RLP Board”).

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.

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

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

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

10. 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..

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

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

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

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

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

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 GROOT INDUSTRIES, INC. 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 Groot Industries, Inc.

Charles F. Helsten
Richard S. Porter
Hinshaw and Culbertson
100 Park Avenue
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chelsten@hinshawlaw.com
rporter@hinshawlaw.com

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 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 D

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:

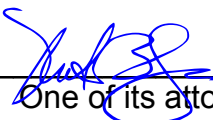
12. Identify all meetings, conversations, communications and contacts between any member of the RLP Board and Dale Kleszynski from the date of his retention by VRLP to the present.

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
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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
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Brad.Halloran@illinois.gov

For Groot Industries, Inc.

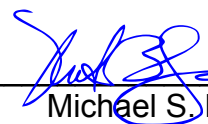
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For the Village of Round Lake Park

Peter S. Karlovics
Law Offices of Rudolph F. Magna
495 N Riverside Drive, Suite 201
Gurnee, IL 60031-5920
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For the Round Lake Park Village Board

Glenn Sechen
The Sechen Law Group
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Michael S. Blazer
One of the attorneys for
Petitioner

EXHIBIT E

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
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For Groot Industries, Inc.

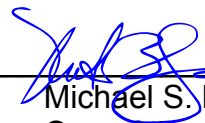
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For the Village of Round Lake Park

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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 F

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 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.



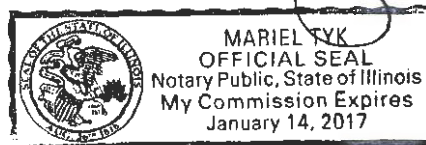
Notary Public

EXHIBIT G

RECEIVED
CLERK'S OFFICE

MAR 04 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
March 4, 2014

TIMBER CREEK HOMES, INC.,)	
)	
Petitioner,)	
)	
v.)	
	)	PCB 14-99
VILLAGE OF ROUND LAKE PARK,	)	(Pollution Control Facility
ROUND LAKE PARK VILLAGE BOARD	)	Siting Appeal)
and GROOT INDUSTRIES, INC.,)	
)	
Respondents.)	
)	

 ORIGINAL

HEARING OFFICER ORDER

On February 18, 2014, respondent Village of Round Lake Park (Village) filed a motion to quash Timber Creek Homes, Inc. (TCH) subpoena *duces tecum* . (Mot.) On February 19, 2014, TCH filed its response (Resp.). On February 24, 2014, the Village filed its reply.

In summary, the subpoena requests documents related to Dale Kleszynski, an expert in the field of real estate appraisal retained by the Village for the siting hearing. Mr. Kleszynski is a principal and employee of Associated Property Counselors, Inc. (APC). The subpoena also seeks any communications with the Village and Groot Industries, Inc. (Groot), and several of Groot's retained siting witnesses. Mot. at para. 6¹; Resp. at 2.

Village's Motion To Quash Subpoena

In a nutshell, the Village makes a blanket objection and argues that the subpoena is overly broad and "outside the scope of these proceedings". Mot. at para. 2, 5, 11. In support, the Village cites to Section 40.1(b) of the Environmental Protection Act (Act) and states that this appeal hearing must "be based exclusively on the record before the county board or the governing body of the municipality". *Id.* The Village also argues that this appeal is void of any facts that would support TCH's fundamental fairness allegation and therefore the subpoena goes beyond the scope of these proceedings as contemplated by Section 40.1 of the Act. *Id.* at para. 11.

¹ The Village neglected to paginate its motion. Citation to paragraph is required.

Finally, the Village argues that because TCH did not properly raise the fundamental fairness issue at the local siting hearing it would be improper to raise it in this proceeding. *Id.* at para. 12.

TCH's Response

Citing case law, TCH argues that when an issue of fundamental fairness is alleged, as is here, evidence may be introduced where the evidence necessarily lies outside the record. Resp. at 1.

In support of its argument that the information sought may lead to relevant information, TCH alleges that the Village failed to disclose that it was a co-applicant with Groot. TCH further alleges that appraiser Dale Kleszynski, an employee of APC, violated provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) by failing to generate an independent statement and instead generated a report that was "in lockstep support of Groot's siting application". Resp. at 3. TCH argues "[t]hat 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". *Id.*

Finally, TCH states that the fundamental fairness issue was indeed raised at the local siting hearing and therefore not waived. Resp. at 4, 5.

Village's Reply

The Village again, citing to Section 40.1 of the Act, argues, *inter alia*, that "the Legislature did not intend to allow time consuming fishing expeditions". Reply at 5. The Village states that "TCH is not entitled to any of what it seeks in its subpoena *duces tecum*". Reply at 1. The Village further argues that some of the documents TCH seeks would include attorney-client material or involve work product. Reply at 2.

Discussion And Ruling

On January 23, 2014, the Board accepted TCH's petition for review that alleged the Village's procedures were fundamentally unfair and the decision was against the manifest weight of the evidence. Timber Creek Homes, Inc. v. Village of Round Lake Park, Round Lake Park Village Board and Groot Industries, Inc., PCB 14-99 (Jan. 23, 2014).²

The purpose of discovery is to uncover all relevant information and information calculated to lead to relevant information. See 35 Ill. Adm. Code 101.616(a). On appeal of a municipality's decision to grant or deny a siting application, the Board generally confines itself to the record developed by the municipality. 415 ILCS 5/40.1 (b) (2012). However, the Board will hear new evidence relevant to the fundamental fairness of the proceedings where such evidence lies outside the record, including pre-filing contacts. See Land and Lakes Co. v. PCB, 319 Ill. App. 3d 41, 48, 743 N.E.2d 188, 194 (3d Dist. 2000). Pre-filing contacts may be probative of

² The respondents' respective motions to strike and dismiss are pending before the Board.

prejudgment of adjudicative facts, which is an element to be considered in assessing a fundamental fairness allegation. American Bottom Conservancy (ABC) v. Village of Fairmont City, PCB 00-200, slip op. at 6 (Oct. 19, 2000). Further, the courts have indicated that fundamental fairness refers to the principles of adjudicative due process and a conflict of interest itself could be a disqualifying factor in a local siting proceeding if the bias violates standards of adjudicative due process. E & E Hauling v. PCB, 116 Ill. App. 3d 586, 596, 451 N.E.2d 555, 564 (2d Dist. 1983), *aff'd* 107 Ill. 2d 33, 481 N.E.2d 664 (1985). The manner in which the hearing is conducted, the opportunity to be heard, whether ex parte contacts existed, prejudgment of adjudicative facts, and the introduction of evidence are important, but not rigid, elements in assessing fundamental fairness. Hediger v. D & L Landfill, Inc., PCB 90-163, slip op. at 5 (Dec. 20, 1990).

Conclusion

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 information that lies outside the record might be relevant information or information calculated to lead to relevant information. The Village's motion to quash, with its blanket objection, is denied.

Procedural rules provide that parties may seek Board review of discovery rulings pursuant to 35 Ill. Adm. Code 101.616 (e). The parties are reminded that the filing of any such appeal of a hearing officer order does not stay the proceeding. In statutory decision deadline cases, such as at bar, the hearing officer must manage the case to insure that discovery, hearing and briefing schedules allow for Board deliberation and a timely decision of the case as a whole.

For all of these reasons, the Village's motion to quash is denied in its entirety.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.


Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917
brad.halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on March 4, 2014, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on March 4, 2014:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois

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EXHIBIT H

RECEIVED
CLERK'S OFFICE

MAR 20 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2014

TIMBER CREEK HOMES, INC.,)	
)	
Petitioner,)	
)	
v.	)	PCB 14-99
	)	(Pollution Control Facility
VILLAGE OF ROUND LAKE PARK,	)	Siting Appeal)
ROUND LAKE PARK VILLAGE BOARD)	
and GROOT INDUSTRIES, INC.,)	
)	
Respondents.)	

HEARING OFFICER ORDER

On February 26, 2014, respondent Groot Industries, Inc. (Groot) filed its objections to Timber Creek Homes, Inc.'s (TCH) discovery requests (Groot Obj.). Also on February 26, 2014, respondent Village of Round Lake Park (Village) filed a motion to strike (Village Mot.) TCH's discovery requests. Likewise, on February 26, 2014, Round Lake Village Board (Village Board) filed objections and a motion to strike (VB Obj.) TCH's and Groot's discovery requests. Finally, on February 26, 2014, TCH filed its consolidated response to respondents' discovery objections (TCH Resp.).

On March 3, 2014, the Village filed "Village of Round Lake Park's Reply Re its Motion to Strike TCH's Discovery Requests." After further reading, the Village is replying to TCH's consolidated response to respondents' discovery objections (V. Reply). Also on March 3, 2014, the Village Board filed its reply to TCH's response to respondent's discovery objections (V.B. Reply).

On March 20, 2014, the Board denied the respective motions to dismiss and held that TCH has not waived its fundamental unfairness claim and that TCH has sufficiently pled its fundamental unfairness claim in its petition. Timber Creek Homes, Inc. v. Village of Round Lake Park, Round Lake Park Village Board and Groot Industries, Inc., PCB 14-99, slip op. at 14 (Mar. 20, 2014).

Due to time constraints that are inherent in statutory decision deadline appeals and the plethora of motions, objections and responses that have been filed regarding discovery in this matter, I will summarize the various objections and motions and responses and then proceed to discussion and decision.

Groot's Objections to TCH's Discovery Requests

It is clear throughout Groot's Objections that Groot is basing its general discovery objections on its argument that TCH either has waived its fundamental unfairness claim or has not sufficiently pled fundamental unfairness claim in its appeal before the Board.

Groot eventually hones in on its objections to TCH's Interrogatories No. 1 through 3, stating that "even if the PCB does permit discovery regarding Petitioner's fundamental fairness claim, pre-filing contacts are not relevant to such claim." Groot Obj. at 5. Groot further objects that except for TCH's Request for Production of Documents No. 15, the production requests are not limited to "the proposed transfer station that is the subject of the proceeding." *Id.* at 2. Groot further objects because the "requests purport to seek information for the time period between March 1, 2008 and June 21, 2013." *Id.*

Finally, Groot argues that TCH's Interrogatories No. 4 through 9 are not "limited to the subject of the transfer station at issue in petitioner's appeal . . . and to the extent that these Interrogatories seek information regarding facilities other than the proposed transfer station at issue in this matter, Groot objects to such Interrogatories." *Id.* at 5.

Village Motion to Strike TCH's Discovery Requests

Like Groot, the Village maintains that discovery and hearing must be based exclusively on the record. Village Mot. at 1. The Village continues with circuitous arguments and finally honing on TCH's Production Requests No. 1 through 22. *Id.* It appears the Village's specific objection is that the Production Requests seek documents, which includes pre-filing documents, from the Village from March 1, 2008 through June 21, 2013. *Id.* The Village also argues generally and as an aside, without specifics, that the requests seek "ethical issues as well as attorney-client and work product privilege issues." *Id.* at 9. Citing TCH's Production Requests No. 23 and 24, the Village objects to documents regarding contacts between Mr. Kleszynski and the Village that include the date Mr. Kleszynski was retained to present, or post-decision contacts. *Id.*

The Village moves on to its objections to TCH's Interrogatories. Although confusing, the Village appears to object to TCH's Interrogatories No. 1 through 10, and argues that the Interrogatories cover a time period between March 1, 2008 through June 21, 2013. *Id.* As with its other objections, including objections to TCH's Request for Production, the Village argues that the Interrogatories are vague, overly broad, unduly burdensome and not relevant. *Id.*

The Village cites Interrogatories No. 2 and 11 that seek information that involve post decisional information and that "would fall squarely within the attorney-client privilege and/or the attorney work-product privilege as TCH seeks information regarding mental impressions and strategy." *Id.* at 10. The Village also cites to TCH Interrogatory No. 13 and states that post-decisional information is not relevant and any information that is relevant Mr. Kleszynski testified to at the hearing and was cross-examined. *Id.* at 10.

Finally, the Village revisits its argument that appeals under Section 40.1 of the Environmental Protection Act (Act) (415 ILCS 5/40.1 (2012)) are based on the record below and does not include "fishing expeditions." *Id.* at 10-11.

Village Board's Objections to TCH's and Groot's Discovery Requests

The Village Board first lodges its objections at TCH's Interrogatories and TCH's Request for Production. The Village Board argues that TCH waived its fundamental unfairness claim and that Section 40.1 of the Act requires the hearing to be based exclusively on the record below. V.B. Obj.¹

The Village Board states that should the Board find that the fundamental unfairness issue is properly before the Board, any discovery seeking attorney-client privilege is improper and that discovery should only involve the transfer station that is the subject of this appeal. *Id.* The Village Board also argues that any discovery should be restricted to the time of filing the application and the final decision of the Village Board. *Id.* Finally, the Village Board argues that the discovery sought is overbroad, unduly burdensome and likely not relevant. *Id.*

The Village Board "adopts its arguments regarding TCH's Interrogatories and TCH's Request for Production for its objection and motion to strike Groot's Interrogatories and Groot's Request for Production." *Id.*

TCH's Consolidated Response to Respondents' Discovery Objections

TCH argues that its fundamental unfairness claim is properly before the Board. TCH Resp. at 4. TCH next states that Groot and the Village Board are trying to improperly limit discovery to the transfer station that is the subject of this appeal. *Id.* at 5. TCH recounts Groot's and the Village Board's arguments that Groot owns and operates other facilities in the area but that documents related to those facilities are not relevant to this appeal. *Id.* at 5-6. TCH argues that this pre-filing information is calculated to lead to relevant information, "[p]articularly in the context of a claim of collusion between respondents . . . and clearly may lead to relevant information-disclosure of the scope and ambit of Respondents scheme." *Id.* at 6. In further support of its discovery requests, TCH argues that Mr. Kleszynski "sought to misrepresent the fact that he had been directed by VRLP, as the undisclosed co-applicant act through Sechen, to generate an 'independent' statement supporting Groot's position." *Id.* at 3. This, TCH contends, is a violation of the Uniform Standards of Professional Appraisal Practice. *Id.*

TCH then takes issue with Groot's and the Village Board's objection that the time frame for information sought is overly broad and should not include pre-filing contacts and should be restricted to the time period between the filing of the application and the final decision of the Village Board. *Id.* TCH claims generally the its theory of collusion demands the requested discovery. *Id.* at 2-6.

¹ The Village Board neglected to paginate its objections.

TCH then responds to the Village's argument that "[t]he motives of the members of a municipal authority are not the proper subjects of judicial inquiry," and therefore there can be no *ex parte* contacts. *Id.* at 7. In rebuttal, TCH argues that the discovery requests are reasonable where "[r]espondents' scheme appears to predate the filing of the application, and may have even been hatched years before, in the context of VRLP's agreement to approve all of Groot's facilities." *Id.*

Finally, TCH states that the Village Board's blanket argument that TCH should not be entitled to discovery regarding information protected by attorney-client privilege and the Village's blanket argument regarding attorney-client privilege and/or work product lacks needed specific objections, reminding the Village that not all communications between Mr. Sechen and the Village Board or Mr. Kleszynski is privileged or involves protected work product. *Id.* at 7-8.

Village's Reply

In its reply, the Village adds no new arguments and simply attacks THC's collusion theory. V. Reply at 1-3.

Village Board's Reply

The Village Board continues its argument that THC's discovery requests are vague and overly broad and "has the potential to devolve to a Spanish Inquisition of sorts, punishing underpaid part time Village Board members for their good attendance at the hearings with baseless accusations of bias" V.B. Reply.²

Discussion and Ruling

On March 20, 2014, the Board found that TCH has not waived its fundamental unfairness claim and that THC has sufficiently pled the fundamental unfairness claim in its petition. Timber Creek Homes, PCB 14-99, slip op. at 14.

The purpose of discovery is to uncover all relevant information and information calculated to lead to relevant information. *See* 35 Ill. Adm. Code 101.616(a). On appeal of a municipality's decision to grant or deny a siting application, the Board generally confines itself to the record developed by the municipality. 415 ILCS 5/40.1(b) (2012). However, the Board will hear new evidence relevant to the fundamental fairness of the proceedings where such evidence lies outside the record, including pre-filing contacts. *See Land and Lakes Co. v. PCB*, 319 Ill. App. 3d 41, 48, 743 N.E.2d 188, 194 (3d Dist. 2000). Pre-filing contacts may be probative of prejudgment of adjudicative facts, which is an element to be considered in assessing a fundamental fairness allegation. American Bottom Conservancy (ABC) v. Village of Fairmont

² The Village Board neglected to paginate its reply.

City, PCB 00-200, slip op. at 6 (Oct. 19, 2000). Further, the courts have indicated that fundamental fairness refers to the principles of adjudicative due process and a conflict of interest itself could be a disqualifying factor in a local siting proceeding if the bias violates standards of adjudicative due process. E & E Hauling v. PCB, 116 Ill. App. 3d 586, 596, 451 N.E.2d 555, 564 (2d Dist. 1983), *aff'd* 107 Ill. 2d 33, 481 N.E.2d 664 (1985). The manner in which the hearing is conducted, the opportunity to be heard, whether *ex parte* contacts existed, prejudgment of adjudicative facts, and the introduction of evidence are important, but not rigid, elements in assessing fundamental fairness. Hediger v. D & L Landfill, Inc., PCB 90-163, slip op. at 5 (Dec. 20, 1990).

Decision

On December 12, 2013, the Village and the Village Board granted siting, with conditions, for a waste transfer station located at 201 Porter Drive in Round Lake Park, Lake County, to Groot. The above siting decision is the issue on appeal, not other transfer stations or facilities owned or operated by Groot. Furthermore, TCH's seemingly arbitrary date of March 1, 2008 to which pre-filing information is sought is not reasonable. It appears that TCH has chosen this date to retrieve information regarding Groot facilities other than the transfer station at issue on appeal.

Respondents' objections to TCH's discovery requests that seek information pertaining to Groot's other transfer stations or facilities are sustained.

It appears that TCH first became aware of its theory of collusion during the siting hearing, when Mr. Kleszynski was being cross-examined. TCH Resp. at 3. To that end, I find that a reasonable time period to seek pre-filing contacts is the day that Mr. Kleszynski was retained by the Village to assist with the transfer station that is the subject of this appeal, to June 21, 2013, the date the siting application was filed. The date of Mr. Kleszynski's retention is not readily apparent from the record or the pleadings.

Respondents' objections to TCH's pre-filing discovery requests from March 1, 2008 are sustained.

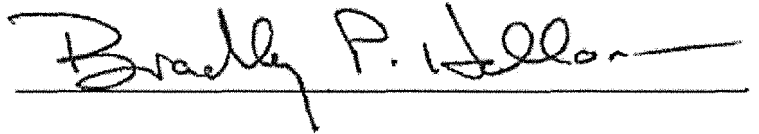
For the reasons above, I find that the time frame for all discovery requests, including pre-filing, is from the date Mr. Kleszynski was retained by the Village to December 12, 2013, the date Groot was granted siting.

Next, it is impossible to discern with any specificity what the respondents allege is attorney-client privilege, protected work product, or what discovery would invade the minds of the decision makers. If the respondents re-allege such objections, a privilege log identifying the document and contended privilege is required, not broad brush objections.

Finally, I direct the parties to partake in an Illinois Supreme Court Rule 201(k) conference on or before March 28, 2014.

Procedural rules provide that parties may seek Board review of discovery rulings pursuant to 35 Ill. Adm. Code 101.616(e). The parties are reminded that the filing of any such appeal of a hearing officer order does not stay the proceeding. In statutory decision deadline cases, such as at bar, the hearing officer must manage the case to insure that discovery, hearing and briefing schedules allow for Board deliberation and a timely decision of the case as a whole.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

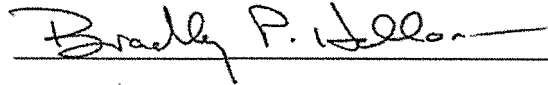
Bradley P. Halloran
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312.814.8917
brad.halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on March 20, 2014, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on March 20, 2014:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois

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EXHIBIT I

5. Admit that the document attached hereto as Exhibit 5 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on February 10, 2009.

Answer: The Village of Round Lake Park Village Board admits.

6. Admit that the document attached hereto as Exhibit 6 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on August 11, 2009.

Answer: The Village of Round Lake Park Village Board admits.

7. Admit that the document attached hereto as Exhibit 7 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on October 13, 2009.

Answer: The Village of Round Lake Park Village Board admits.

8. Admit that the document attached hereto as Exhibit 8 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on November 3, 2009.

Answer: The Village of Round Lake Park Village Board admits.

9. Admit that the document attached hereto as Exhibit 9 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on December 8, 2009.

Answer: The Village of Round Lake Park Village Board admits.

10. Admit that the document attached hereto as Exhibit 10 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on January 19, 2010.

Answer: The Village of Round Lake Park Village Board admits.

11. Admit that the document attached hereto as Exhibit 11 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on February 16, 2010.

Answer: The Village of Round Lake Park Village Board admits.

12. Admit that the document attached hereto as Exhibit 12 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on April 5, 2011.

Answer: The Village of Round Lake Park Village Board admits.

13. Admit that the document attached hereto as Exhibit 13 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on June 7, 2011.

Answer: The Village of Round Lake Park Village Board admits.

14. Admit that the document attached hereto as Exhibit 14 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on December 13, 2011.

Answer: The Village of Round Lake Park Village Board admits.

15. Admit that the document attached hereto as Exhibit 15 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on December 20, 2011.

Answer: The Village of Round Lake Park Village Board admits.

16. Admit that the document attached hereto as Exhibit 16 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on February 7, 2012.

Answer: The Village of Round Lake Park Village Board admits.

17. Admit that the document attached hereto as Exhibit 17 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on March 13, 2012.

Answer: The Village of Round Lake Park Village Board admits.

18. Admit that the document attached hereto as Exhibit 18 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on March 20, 2012.

Answer: The Village of Round Lake Park Village Board admits.

19. Admit that the document attached hereto as Exhibit 19 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on April 3, 2012.

Answer: The Village of Round Lake Park Village Board admits.

20. Admit that the document attached hereto as Exhibit 20 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on April 10, 2012.

Answer: The Village of Round Lake Park Village Board admits.

21. Admit that the document attached hereto as Exhibit 21 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on May 15, 2012.

Answer: The Village of Round Lake Park Village Board admits.

22. Admit that the document attached hereto as Exhibit 22 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on June 5, 2012.

Answer: The Village of Round Lake Park Village Board admits.

23. Admit that the document attached hereto as Exhibit 23 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on July 3, 2012.

Answer: The Village of Round Lake Park Village Board admits.

24. Admit that the document attached hereto as Exhibit 24 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on October 9, 2012.

Answer: The Village of Round Lake Park Village Board admits.

25. Admit that the document attached hereto as Exhibit 25 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on October 30, 2012.

Answer: The Village of Round Lake Park Village Board admits.

26. Admit that the document attached hereto as Exhibit 26 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on November 6, 2012.

Answer: The Village of Round Lake Park Village Board admits.

27. Admit that the document attached hereto as Exhibit 27 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on December 4, 2012.

Answer: The Village of Round Lake Park Village Board admits.

28. Admit that the document attached hereto as Exhibit 28 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on December 11, 2012.

Answer: The Village of Round Lake Park Village Board admits.

29. Admit that the document attached hereto as Exhibit 29 is a true, correct, genuine and complete copy of the minutes of the Village Board meeting held on January 15, 2013.

Answer: The Village of Round Lake Park Village Board admits.

30. Admit that the document attached hereto as Exhibit 30 is a true, correct, genuine and complete copy of the minutes of the Village Board Committee of the Whole meeting held on March 11, 2008.

Answer: The Village of Round Lake Park Village Board admits.

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

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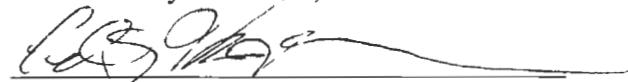
VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

CYNTHIA FAZEKAS, being first duly sworn, deposes and says that she is the Deputy Village Clerk for the Village of Round Lake Park, that she authorized by the Round Lake Park Village Board to verify RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S ANSWER TO REQUEST TO ADMIT FACTS AND GENUINNESS OF DOCUMENTS ("ANSWER TO REQUEST TO ADMIT") and that she has read the foregoing ANSWER TO REQUEST TO ADMIT; that she knows the contents thereof; and that said response is true and correct to the best of her knowledge, information and belief.


Cynthia Fazekas, Deputy Village Clerk

SUBSCRIBED and SWORN to before me
This 12th day of March, 2014.


Notary Public



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**VILLAGE OF ROUND LAKE PARK'S ANSWER TO TIMBER CREEK HOMES, INC.'S
REQUEST TO ADMIT FACTS AND GENUINENESS OF DOCUMENTS**

NOW COMES the Village of Round Lake Park and hereby answers the Request to Admit Facts and Genuineness of Documents filed by Timber Creek Homes by adopting the answer thereto filed by the Village Board.

Respectfully submitted,
Village of Round Lake Park

By *Glenn C. Sechen*
One of Its Attorneys

Glenn C. Sechen
The Sechen Law Group, PC
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