

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 LEAVE TO FILE ITS CONSOLIDATED REPLY IN
SUPPORT OF ITS MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER
ORDER**

Now comes Petitioner, Timber Creek Homes, Inc. (“TCH”), by its attorneys, Jeep & Blazer, LLC, and for its Motion pursuant to 35 Ill.Adm.Code 101.500(e) for Leave to File its Consolidated Reply in Support of its Motion for Expedited Review of Hearing Officer Halloran’s March 20, 2014 Order limiting discovery in this matter, states:

1. TCH filed its Motion for Expedited Review of the subject Hearing Officer Order on March 20, 2014. Because of the accelerated schedule in this case, on March 25, 2014 the Hearing Officer directed Respondents to respond to TCH’s Motion by March 28, 2014. The March 25 Order also granted TCH until March 31 to file a Reply to the Responses. This is likely a typographical error. At the March 25 status conference, counsel for TCH represented that he would file a Motion for Leave to File a Reply, consistent with 35 Ill.Adm.Code 101.500(e), by March 31, and would attach the Reply to that Motion. This was doubtless what the Hearing Officer intended to confirm in that portion of his March 25 Order.

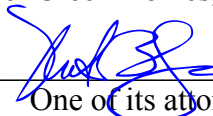
2. With that said, all three Respondents, Village of Round Lake Park (“VRLP”), VRLP’s Board (the “Village Board”) and Groot Industries, Inc. (“Groot”) have filed Responses opposing TCH’s instant Motion for Expedited Review. There are substantial similarities between all three Responses, highlighted by misstatements of the facts, misapplication of relevant legal

principles, and outright misrepresentations of events that occurred during the siting hearing at issue in this matter.

3. TCH's proposed Consolidated Reply is attached hereto as Attachment 1. The Reply focuses on the many errors, omissions and misrepresentations in the Responses. TCH believes that the Reply will assist the Board in fully addressing the issues currently before it. The Board's full understanding of the facts will also potentially limit the material prejudice that TCH stands to suffer as a result of the limitation that has been imposed on its ability to conduct discovery on the matters at issue in this proceeding.

4. TCH therefore requests that it be given leave to file its Consolidated Reply *instanter*.

Respectfully submitted,
Timber Creek Homes, Inc.

By: 
One of its attorneys

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ATTACHMENT 1

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TIMBER CREEK HOMES, INC.,)	
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Petitioner)	
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v.)	No. PCB 2014-099
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ROUND LAKE PARK VILLAGE BOARD)	
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Respondents)	

PETITIONER’S CONSOLIDATED REPLY IN SUPPORT OF ITS MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER ORDER

Now comes Petitioner, Timber Creek Homes, Inc. (“TCH”), by its attorneys, Jeep & Blazer, LLC, and hereby submits its Consolidated Reply in Support of its Motion for Expedited Review of Hearing Officer Halloran’s March 20, 2014 Order limiting discovery in this matter.

I. INTRODUCTION

All three Respondents, Village of Round Lake Park (“VRLP”), VRLP’s Board (the “Village Board”) and Groot Industries, Inc. (“Groot”) have filed Responses opposing TCH’s instant Motion for Expedited Review. It is important in the first instance to recognize the broad scope of discovery allowed in Board proceedings is set forth in 35 Ill. Adm. Code 101.616(a), which provides, in relevant part:

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

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

The Board is certainly familiar with its own rule, but it is important to restate it at the outset since all of the Respondents effectively ignore it in their Responses.

II. RESPONDENTS ADMIT A VAST NUMBER OF PRE-APPLICATION CONTACTS AND COMMUNICATIONS THAT ARE CLEARLY SUBJECT TO DISCOVERY, AND WHICH THE HEARING OFFICER FAILED TO TAKE INTO ACCOUNT

As initially noted in TCH's instant Motion, Hearing Officer Halloran previously 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)

Ignoring these settled principles, the Village Board asserts that TCH's discovery requests merely reflect TCH's expressed "intent to abuse the discovery process", because TCH's corporate representative stated at the siting hearing that discovery would take place during this review proceeding. (Village Board Response at 1) VRLP adds hyperbole, asserting that, "TCH seeks this Board's approval to turn its fishing expedition into a witch hunt...." (VRLP Response at 5) Respondents apparently view as "abusive" and a "witch hunt" the discovery resulting from their own scheme to carry out a sham siting hearing. The Village Board ignores the fact that the statement by TCH's corporate representative came on the heels of the disclosure of the scheme between RLPVB and Groot, and of TCH's statement on the record preserving its fundamental fairness claim. Yet Respondents now complain that the discovery to which TCH is entitled, exclusively because of the scheme that led to that claim, is nevertheless somehow improper.

The Village Board next states that the discovery TCH seeks “potentially covers thousands of communications over a six (6) year period” and encompasses “volumes of documents and information”. (Village Board Response at 2) There is no “quantity” exception to the rules of discovery. Moreover, any such “duration” objection has been waived. Neither VRLP nor the Village Board objected to the scope of TCH’s Request to Admit, which encompasses the same time frame.

The above statements do confirm two things. First, despite having had TCH’s discovery requests since January 31, 2014, the Village Board has done nothing to even begin the response effort, focusing instead on a myriad of excuses for its failure to do so. In that regard, counsel for the Village Board, in an effort at “good faith”, previously committed to provide the information that is not the subject of any objections by March 17 or 18. (See exchange of emails attached hereto as Exhibit A.) Despite that “commitment”, nothing has been produced. VRLP’s counsel made no such “good faith” commitment, and simply ignored a similar request. (See exchange of emails attached hereto as Exhibit B.) Counsel for Groot, eschewing “good faith” entirely, categorically refused to produce anything. (See exchange of emails attached hereto as Exhibit C.)

Groot takes the effect of these failures a step further. As noted in TCH’s Motion, Groot has refused to agree to any further extensions of the hearing deadline in this matter. Groot now uses both its refusal to extend the decision deadline, and to respond to discovery, as the basis for its argument that allowing the discovery TCH seeks would “not be either effective or efficient governmental operation, or result in the statutorily mandated expedited process”. (Groot Response at 7)

Respondents' studied refusal to comply with proper discovery, continuing this late in this process and with a discovery cutoff and hearing date looming, present a virtually insurmountable obstacle to TCH's right to a full and fair hearing before this Board.

Further, and even more important in the present context, the Village Board's above statements confirm a vast array of pre-application contacts and communications between the Village Board and Groot – in numbers far beyond the norm. What were they talking about so much? What were they meeting about so often (in apparent violation of the Illinois Open Meetings Act)? Most important, what are they trying so hard to hide? Those questions should never have to be asked in proceedings governed by the modern rules of discovery.

Respondents then audaciously try to justify the Village Board's predetermination. 415 ILCS 5/39.2(d) provides that, "The fact that a member of the county board or governing body of the municipality has publicly expressed an opinion on an issue related to a site review proceeding shall not preclude the member from taking part in the proceeding and voting on the issue". Based on this provision, the Respondents argue that the statements of clear predisposition in its meeting minutes are not sufficient to prove a fundamental fairness claim. (Village Board Response at 4; VRLP Response at 7; Groot Response at 4-5) Groot goes a step further, and reiterates its baseless argument that TCH did not raise or properly preserve its claim of fundamental fairness during the siting hearing. (Groot Response at 2, 6)

As repeatedly pointed out in this proceeding, counsel for TCH raised the issue of fundamental fairness, including bias, pre-judgment, and VRLP's previously undisclosed status as a co-applicant, during the cross-examination of one of TCH's witnesses by VRLP's counsel, Glenn Sechen ("Sechen"). TCH's counsel specifically confirmed that the issue was being raised so that it would not be waived. The Hearing Officer nevertheless 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)

Groot does not say what more it believes was needed – doubtless because the law requires nothing more. It is well settled that the party claiming a fundamental fairness violation must have “raised” or “asserted” the issue during the siting proceeding. *E & E Hauling, Inc. v. Pollution Control Board*, 107 Ill.2d 33, 38 (1985) *Peoria Disposal Co. v. Illinois Pollution Control Board*, 385 Ill.App.3d 781, 798 (3rd Dist.), appeal denied 231 Ill.2d 654 (2008) TCH did so in this case.

More to the point, Respondents' assertions consciously confuse the issue of what evidence may be required to prove a fundamental fairness violation, with the scope of the discovery to which a party is entitled with respect to such a claim.¹ Respondents ignore the “calculated to lead to relevant information” standard in §101.616 (and in the discovery rules applicable to all proceedings in this State). Particularly in the context of a claim of collusion between the Respondents, any and all communications between them, and particularly communications in the context of Groot's present and future operations in VRLP, clearly may lead to relevant information – disclosure of the scope and ambit of Respondents' scheme.

Respondents also try to explain away the admitted statements in the Village Board's meeting minutes – the subjects of TCH's Requests to Admit that have been admitted by the

¹ The Board reiterated that distinction in its denial of Respondents' Motions to Dismiss. *Timber Creek Homes, Inc. v. Village of Round Lake Park*, 2014 WL 1117954, PCB 14-99, Slip Op. Cite at 12 (March 20, 2014)

² Groot claims that VRLP also objected on the basis of the deliberative process privilege. (Groot Response at 2, n. 2) That is in fact not one of VRLP's objections.

³ In a final “throw away” assertion, VRLP concludes with the statement that, “In light of TCH's admissions in this appeal, RLP requests that the Board reconsider its Motion to Strike and Dismiss.” (VRLP Response at 8) This statement presumably refers to the Board's March 20, 2014 denial of Respondents' Motions to Dismiss TCH's

Village Board and VRLP. (Village Board Response at 5-10; VRLP Response at 6-7) Conspicuously absent from these “explanations” is any specific reference to any of the “thousands of communications” that would support those “explanations” – or controvert them.

The Village Board next takes issue with Sechen’s statements evidencing VRLP’s status as an undisclosed co-applicant. The Village Board argues that the subject statements were not made, and were merely the subject of TCH’s accusations of predisposition. (Village Board Response at 10-11) VRLP claims to not even understand what being a “an undisclosed co-applicant” means. (VRLP Response at 2, n. 2) Yet Respondents fail to mention that counsel for the Solid Waste Agency of Lake County (“SWALCO”), a quasi-governmental agency and participant at the siting hearing, likewise noted that VRLP failed to disclose that it was a co-applicant with Groot:

BY MR. SECHEN:

Q. Okay. Not the same question, Mr. Thorsen, do you take issue with the **Village of Round Lake Park and its hauler finding it necessary, if they do, to site a transfer station** for whatever business reasons they may have?

MR. BLAZER: Objection. Relevance. It's not Criteria 1.

THE HEARING OFFICER: Objection overruled.

MR. CLARK [Counsel for SWALCO]: I'm going to object as well. **I didn't know that the Village was an applicant in this case.**

MR. SECHEN: Village isn't. **Village is making the decisions.**

MR. CLARK: That was the question. **Village and Groot.**
[Emphasis added]

(C03220-03221; 09/25/13 Hearing Transcript-2 at 104-105)

Finally, the Village Board describes as “nonsense” and “outlandish” the fact that VRLP’s testifying witness, Dale Kleszynski (“Kleszynski”), tried to misrepresent the fact that he was

directed by VRLP to generate an "independent" opinion. (Village Board Response at 11) VRLP describes TCH's assertion as "shaping and twisting of the clear language contained in the record". (VRLP Response at 3) This is what Kleszynski first said about his "independent opinion:

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

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

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

A. He was okay with it.

Q. He was okay with it?

A. Yeah.

Q. What did he tell you?

A. He noted that I had formulated my own opinion and asked me if I was comfortable with doing that, and I said I was.

(C3742.067-C3742.068; 10/02/13 Hearing Transcript-1 at 67-68)

Despite his claim that he merely "offered" an opinion without being asked to do so, Kleszynski was impeached by his own report. That report confirmed that Kleszynski was asked to render a separate opinion by his client, VRLP, and that his report is "specific to the needs of the client":

Q. And you have indicated in your report, it's on page 11, last paragraph, in addition to reviewing the Poletti report, **the client requested** that I use the data in the Poletti report and other information to formulate an independent opinion and determine if the Groot Industries Inc. Lake Transfer Station is located to

minimize the effect on the value of surrounding property; did I read that correctly?

A. You did.

Q. So it sounds to me, based on what you wrote in your report, that rather than volunteering your independent opinion, in fact, the client asked to you do that; isn't that right?

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

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

A. **My report says that they requested.** [Emphasis added]

(C3742.070-C3742.071; 10/02/13 Hearing Transcript-1 at 70-71)

Having suborned an outright misrepresentation, VRLP compounds its misconduct by arguing that what it had Kleszynski do was “ethical”. (VRLP Response at 2) But Kleszynski himself admitted that the subject conduct violated both the Uniform Standards of Professional Appraisal Practice and the Appraisal Code of Ethics. (C3742.064-C3742.05; 10/02/13 Hearing Transcript-1 at 64-65) Indeed, Sechen never told Kleszynski that the contents of his report were inconsistent with what VRLP wanted. (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)

Seeking to sidestep these admissions, VRLP now tries to “revise” the scope of Sechen’s role. VRLP claims, without citation to anything in the record of this case, that, “Prior to the filing of the siting application (“Application”) on June 21, 2013 Counsel for RLP along [*sic*] Counsel for the Village Board represented the entirety of the Village, including the Village Board acting in its legislative capacity.” (VRLP Motion at 1) The record in fact contradicts this assertion. Attached hereto as Exhibit D is a copy of Village Board meeting minutes of October 30, 2012

(the subject of paragraph 25 of TCH's Request to Admit). Those minutes confirm that VRLP's counsel was retained "as Village Special Counsel for the negotiation with Groot on the Host Agreement and for the siting hearing." (Exhibit D at 2)

Precluding discovery in the face of facts and circumstances like these, "which beg for a clearer explanation", is contrary to the rules of discovery and constitutes an abuse of discretion. *Senese v. Climatemp, Inc.*, 222 Ill.App.3d 302, 320 (1st Dist. 1991), appeal denied 144 Ill.2d 643 (1992)

III. RESPONDENTS HAVE PROVIDED NO SPECIFIC BASIS FOR LIMITING TCH'S DISCOVERY REQUESTS

In its original objections to TCH's discovery requests, VRLP listed a series of general, blanket and non-specific "objections", including:

1. Attorney-client privilege;
2. Legislative privilege;
3. Mental impressions and strategy of RLP's Counsel;
4. Attorney work product privilege;
5. Appraiser related material; and
6. Post siting approval material.²

Notably, VRLP failed to identify a single item that might even arguably fall within any of the asserted bases for non-disclosure (the last two items on the list can hardly be called "privileges").

It is important in this regard to recognize that it is Respondents' burden to establish that any particular item that is subject to TCH's discovery requests is in fact subject to some applicable privilege. See, e.g., *Cangelosi v. Capasso*, 366 Ill.App.3d 225, 228 (2nd Dist.), appeal denied 222 Ill.2d 568 (2006); *In re Marriage of Daniels*, 240 Ill.App.3d 314 324 (1st Dist. 1992) Moreover, communications between an attorney and a testifying expert retained by the attorney's

² Groot claims that VRLP also objected on the basis of the deliberative process privilege. (Groot Response at 2, n. 2) That is in fact not one of VRLP's objections.

client are not privileged. See, e.g., *Midwesco-Paschen Joint Venture For Viking Projects v. IMO Industries, Inc.*, 265 Ill.App.3d 654, 666-669 (1st Dist.), appeal denied 157 Ill.2d 505 (1994)

Specifically, Illinois Supreme Court Rule 201(n) provides that:

Claims of Privilege. When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by **a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed.** [Emphasis added]

See also *Consolidation Coal Co. v. Bucyrus-Erie Co.*, 89 Ill.2d 103, 119 (1982) (The burden is on the proponent of the privilege to show that the privilege applies to the specific communication at issue, and the privilege only applies if the communication was with a member of the organization's control group.); *Profit Management Development, Inc. v. Jacobson, Brandvik and Anderson, Ltd*, 309 Ill.App.3d 289, 299 (2nd Dist. 1999) None of the Respondents have even attempted to meet their burden.

Further, communications are not automatically privileged simply because they were made to or from an attorney. The party claiming the privilege must first establish that the particular communication entailed "confidential legal advice". Any other communications are not subject to the privilege. *People v. Radojcic*, 2013 IL 114197, ¶40 (2013) Again, Respondents have made no effort to meet their burden.

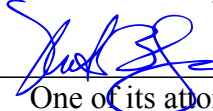
IV. CONCLUSION³

As noted previously, evidence of pre-filing collusion is directly relevant to a fundamental fairness claim. *Land & Lakes, supra*, 319 Ill.App.3d at 49 Evidence of that collusion, certainly enough to warrant further inquiry, already exists in the record. Respondents' efforts to sidestep

³ In a final "throw away" assertion, VRLP concludes with the statement that, "In light of TCH's admissions in this appeal, RLP requests that the Board reconsider its Motion to Strike and Dismiss." (VRLP Response at 8) This statement presumably refers to the Board's March 20, 2014 denial of Respondents' Motions to Dismiss TCH's Petition for Review. *Timber Creek Homes, Inc. v. Village of Round Lake Park*, 2014 WL 1117954, PCB 14-99 (March 20, 2014) That decision addressed the pleading requirements applicable to a petition for review. VRLP provides no basis for its request, nor has it followed the requisite procedure for making it. 35 Ill.Adm.Code 101.504, 101.520

and evade that evidence, and avoid the disclosure of any further evidence, highlights the need for the discovery TCH seeks. Left as it now stands, the Hearing Officer's limitation on discovery impedes TCH's right to a full and fair hearing before the Board. For all of the foregoing reasons, TCH requests that the Board overturn the Hearing Officer's Order limiting discovery, and direct that responses to TCH's discovery requests be provided on an expedited basis.


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 CONSOLIDATED REPLY IN SUPPORT OF ITS 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

EXHIBIT A

Subject: Re: Halloran and Written Discovery responses
Date: Thursday, March 13, 2014 at 1:33:39 PM Central Daylight Time
From: Mike Blazer
To: Peter Karlovics

Agreed.

Michael S. Blazer

Jeep & Blazer, L.L.C.

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From: Peter Karlovics <PKarlovics@aol.com>
Date: Thursday, March 13, 2014 at 1:28 PM
To: "Michael S. Blazer" <mblazer@enviroatty.com>, Richard Porter <rporter@hinshawlaw.com>
Cc: Charles Helsten <chelsten@hinshawlaw.com>, Glenn Sechen <glenn@sechenlawgroup.com>
Subject: Re: Halloran and Written Discovery responses

Mike:

I am sensitive to your concerns regarding discovery, and want to act in good faith.

I will try to get you some partial discovery by Monday or Tuesday.

You already have a decent amount of material. You previously received discovery from the Village through your previous Freedom of Information Act request. I ask that you specifically do not require me to "reproduce" the documents I have already produced to you, so that I can focus on getting you additional information from the Trustees and Mayor, and for supplemental information I am putting together.

Let me know if this is acceptable.

The Law Offices of

Rudolph F. Magna

Peter S. Karlovics

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Gurnee, Illinois 60031

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From: Mike Blazer <mblazer@enviroatty.com>

To: rporter <rporter@hinshawlaw.com>; Peter Karlovics <pkarlovics@aol.com>

Cc: chelsten <chelsten@hinshawlaw.com>; glenn <glenn@sechenlawgroup.com>

Sent: Thu, Mar 13, 2014 1:12 pm

Subject: Re: Halloran and Written Discovery responses

Why not?

Michael S. Blazer

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From: Richard Porter <rporter@hinshawlaw.com>

Date: Thursday, March 13, 2014 at 12:53 PM

To: Peter Karlovics <PKarlovics@aol.com>

Cc: Charles Helsten <chelsten@hinshawlaw.com>, Glenn Sechen <glenn@sechenlawgroup.com>, "Michael S. Blazer" <mblazer@enviroatty.com>

Subject: Re: Halloran and Written Discovery responses

Groot also will not be producing any written discovery on 3/15. We have no objection to the supplementation of the record and obviously agree with the 10 day extension.

Richard S. Porter,
Attorney at Law

Hinshaw & Culbertson LLP

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From: Peter Karlovics <pkarlovics@aol.com>

To: rporter@hinshawlaw.com, mblazer@enviroatty.com,

Cc: glenn@sechenlawgroup.com, chelsten@hinshawlaw.com

Date: 03/13/2014 12:41 PM

Subject: Re: Halloran and Written Discovery responses

To all:

I will not be able to make the deadline for discovery.

I need to work with six Trustees and the Mayor to get their responses, and they are still working on getting those to me. I also have a large number of documents to produce, and I do not have those documents assembled. I am working on a worst case scenario, so I am trying to comply with both TCH's and Groots requests. I believe the scope should be restricted, but am trying to prepare myself, in case it is not.

I am wondering if Timber Creek and Groot would agree to a ten day extension, which would allow me to complete the work necessary to get answers to their discovery requests.

I am also going to be filing a motion to supplement the record. When I initially got the copying of the record done at Office Max, they missed 77 pages of the record. Mr. Blazer found that they missed copying September 1, 2013 12 noon session of the hearing. I reviewed the record, and found that there are more missing pages. I am going to file a motion to supplement the record again. I reviewed the record from top to bottom, and have found all of the missing pages, so there will not be any further request to supplement the record. This has been a nightmare for me. I ask as to whether anyone has any objections to this motion.

Please get back to me as to whether everyone is agreed to a 10 day extension for production of discovery, and to my motion to supplement the record.

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-----Original Message-----

From: rporter <rporter@hinshawlaw.com>

To: Mike Blazer <mblazer@enviroatty.com>

Cc: Glenn Sechen <glenn@sechenlawgroup.com>; Peter Karlovics <PKarlovics@aol.com>; chelsten <chelsten@hinshawlaw.com>

Sent: Thu, Mar 13, 2014 11:37 am

Subject: Re: Halloran and Written Discovery responses

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Attorney at Law

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Rockford, IL 61101
direct: (815) 490-4920
cell (815) 218-9310
fax: (815) 490-4901

From: Mike Blazer <mblazer@enviroatty.com>
To: Glenn Sechen <glenn@sechenlawgroup.com>, Richard Porter <rporter@hinshawlaw.com>, Peter Karlovics <PKarlovics@aol.com>,
Date: 03/13/2014 11:20 AM
Subject: Halloran

Just spoke to John. Brad's mother is having surgery and he is out until the 18th. He'll probably be swamped, but we might as well try to circulate availability among ourselves for next week. I'm pretty wide open any day.

Michael S. Blazer

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Fax: (708) 236-0828
Cell: (708) 404-9091
Email: mblazer@enviroatty.com
Web Site: www.jeepandblazer.com

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EXHIBIT B

Subject: Re: Halloran and Written Discovery responses
Date: Saturday, March 15, 2014 at 10:53:43 AM Central Daylight Time
From: Mike Blazer
To: glenn@sechenlawgroup.com

Glenn?

Michael S. Blazer

Jeep & Blazer, L.L.C.

24 N. Hillside Avenue, Suite A

Hillside, IL 60162

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Fax: (708) 236-0828

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Email: mblazer@enviroatty.com

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From: "Michael S. Blazer" <mblazer@enviroatty.com>
Date: Thursday, March 13, 2014 at 2:07 PM
To: Glenn Sechen <glenn@sechenlawgroup.com>
Cc: Charles Helsten <chelsten@hinshawlaw.com>, Peter Karlovics <PKarlovics@aol.com>, Richard Porter <rporter@hinshawlaw.com>
Subject: Re: Halloran and Written Discovery responses

Glenn – where are you in all this?

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From: Richard Porter <rporter@hinshawlaw.com>
Date: Thursday, March 13, 2014 at 2:02 PM
To: "Michael S. Blazer" <mblazer@enviroatty.com>
Cc: Charles Helsten <chelsten@hinshawlaw.com>, Glenn Sechen <glenn@sechenlawgroup.com>, Peter Karlovics <PKarlovics@aol.com>
Subject: Re: Halloran and Written Discovery responses

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<pkarlovics@aol.com>
Date: 03/13/2014 01:48 PM
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Cc: Charles Helsten <chelsten@hinshawlaw.com>, Glenn Sechen <glenn@sechenlawgroup.com>, Peter Karlovics <PKarlovics@aol.com>
Subject: Re: Halloran and Written Discovery responses

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Date: 03/13/2014 01:12 PM
Subject: Re: Halloran and Written Discovery responses

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From: Richard Porter <rporter@hinshawlaw.com>
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To: Peter Karlovics <PKarlovics@aol.com>
Cc: Charles Helsten <chelsten@hinshawlaw.com>, Glenn Sechen <glenn@sechenlawgroup.com>, "Michael S. Blazer" <mblazer@enviroatty.com>
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To: rporter@hinshawlaw.com, mblazer@enviroatty.com,
Cc: glenn@sechenlawgroup.com, chelsten@hinshawlaw.com
Date: 03/13/2014 12:41 PM
Subject: Re: Halloran and Written Discovery responses

To all:

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Please get back to me as to whether everyone is agreed to a 10 day extension for production of discovery, and to my motion to supplement the record.

The Law Offices of

Rudolph F. Magna

Peter S. Karlovics

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To: Mike Blazer <mblazer@enviroatty.com>
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EXHIBIT C

Subject: Re: Halloran and Written Discovery responses
Date: Thursday, March 13, 2014 at 2:02:08 PM Central Daylight Time
From: rporter@hinshawlaw.com
To: Mike Blazer
CC: chelsten@hinshawlaw.com, glenn@sechenlawgroup.com, Peter Karlovics
Category: 00575.5, 00575.6, 00575.3

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EXHIBIT D

Village of Round Lake Park
Committee Meeting Minutes
October 30, 2012

Mayor McCue called the committee meeting to order at 6:00pm. On roll call by the Clerk the following members were:

Present: Seminary, Williams, Graham, Cerretti and Lucassen

Absent: Kenyon

Quorum

Also present: Peter Karlovics, Glen Sechen and Al Maiden

Special Presentation-None

Mayor Report

1. Informed the board that a letter was sent to Veolia, fulfilling the 90 day notice, informing them that we will not be renewing their contract.

Clerk-No Report

Committee Reports

Planning, Zoning, Licensing & Ordinance Review-Trustee Kenyon

Absent, No Report

Code Enforcement & Public Safety-Trustee Graham

No Report

Human Resources/Community Outreach-Trustee Lucassen

No Report

Finance-Trustee Williams

No Report

Public Works-Trustee Seminary

No Report

Environmental Planning, Protection & Management-Trustee Cerretti

No Report

Department Report

Police-No Report

Public Works-No Report

Building Inspector-No Report
Treasurer-No Report

Old Business

- A. Village Attorney Karlovics proceeded to explain that the purpose of this meeting was to consider two matters: the Siting Ordinance, and the local solid waste management plan. Glen Sechen was introduced as Village Special Counsel for the negotiation with Groot on the Host Agreement and for the siting hearing. Mr. Sechen's purpose in attending was to explain the Siting Ordinance. Al Maiden, the Village Planner was in attendance to explain the local Solid Waste Management Plan.

Included in the board packets was the Siting Ordinance that would be used for the hearing on the waste transfer station. It sets all the ground rules. It is a very important ordinance. The local Solid Waste Management Plan is a plan that the village is going to be adopting that will provide a plan for the disposal of waste generated in the community. Further explanations were then turned over to Glen Sechen and Al Maiden.

Mr. Sechen stated that the best thing to do is adopt a Siting Ordinance that would limit the amount of "nits that could be picked". The most important thing is the filing fee which is \$100,000.00 in this case. The applicant has to maintain an escrow. They pay the fees of everyone involved. Additionally the content of the application is important. Essentially the hearing procedures from the Village Board standpoint, probably the most important thing to remember is the findings of fact and conclusions of law which are required to be done by a Hearing Officer. The ordinance also encourages, but does not make mandatory, that the Hearing Officer allow all the parties to adopt findings of fact and conclusions of law and file them. He said essentially the Village Board would be making decisions and adopting their own findings of fact and conclusions of law.

He also stated that the board is sitting as a judge in a proceeding like this and contrary to the way the legislative process typically works, they are strongly encouraged not to answer questions from the public. This is contrary to everything they do as an elected official. He advised the board to not take a position publicly on the process and essentially not discuss the hearings until they are discussed in an open meeting to make a decision.

Attorney Karlovics reminded the board that a Hearing Officer will be running the hearings and their job is to listen. The Hearing Officer will give the board his findings of fact and conclusions of law as well as Glen Sechen and Groot's Attorney. The Village Board will grant or deny siting approval based upon the record from the Public Hearing and review of all of the filed findings of fact and conclusions of law.

Attorney Karlovics stressed to the board that it is absolutely essential that they not have any contact with anyone and not discuss this. They are not to take a position. Basically just state "no comment".

B. Al Maiden described the local solid waste management plan. He stated that the plan was the result of obtaining input from staff and from consultants. The Solid Waste Management Plan for the Village of Round Lake Park was prepared under the authority of the Local Waste Disposal Act, which provides that Units of local government may prepare solid waste management plans for disposal of solid waste generated within their jurisdictions. Al Maiden presented the draft plan to the Board of Trustees, to get their input.

Glen Sechen pointed out that there is no Host Agreement mandated by the Village Plan. He stated that they will seek to have the applicant show that the application is consistent with the Village Plan, which in turn is consistent with at least the valid parts of the Lake County Plan.

The Local Solid Waste Disposal Act states that solid waste management plans shall include provisions for, but need not be limited to, the following:

1. A description of the origin, content and weight or volume of municipal waste currently generated within the unit of local government's boundaries, and an estimate of the origin, content, and weight or volume of municipal waste that will be generated within the unit of local government's boundaries during the next 20 years, including an assessment of the primary variables affecting this estimate and the extent to which they can reasonably be expected to occur.
2. A description of the time schedule for the development and operation of each proposed facility or program;
3. The identity of potential sites within the unit of local government where each proposed waste processing, disposal and recycling program will be located , or an explanation of how the sites will be chosen. For any facility outside the unit of local government that the unit of local government proposes to utilize, the plan shall explain the reasons for selecting that facility.

The Mayor asked a question regarding the source for the numbers on waste generation in the plan. In regard to the Waste Generation, a lot of the numbers come right from the county plan. Estimates of waste generation are very consistent now compared to the past.

Commercial waste and construction and demolition debris in the Village is collected by private waste haulers that contract directly with individual businesses. As a result, the Village does not have data on commercial waste and construction and demolition debris quantities. However, general rates for the commercial and construction and demolition debris sectors were reported in the Lake County 2009 Plan Update. Municipal waste was estimated to be generated by the commercial sector at a rate of 4.24 pounds per capita per day and by the construction and demolition debris sector at a rate of 1.81 pounds per capita per day in 2008, the most recent year for which data is available.

The Current Waste Management Infrastructure states that the Village of Round Lake Park currently contracts with Veolia Environmental Services.

The capacity at landfills in Lake County is decreasing. The Countryside Landfill has less than 10 years of capacity remaining and is projected to close in 2022. The Veolia ES Zion Landfill received local siting approval for an expansion in 2010. Based on annual tonnage estimates presented by Veolia ES in its siting application and the most recent capacity data reported to the Illinois Environmental Protection Agency, the landfill has approximately 14 years of capacity remaining.

The Plan talks about landfill proximity to the Village of Round Lake Park. There is a proposed Solid Waste Management System for the Village pursuant to the plan. The Village has implemented a comprehensive curbside recycling and landscape waste collection program for its residents that is currently diverting approximately 25 percent of the residential waste stream from disposal. Significant quantities of waste generated within the Village are not diverted through recycling and landscape waste programs and must be disposed in a landfill. There are no transfer stations located in Lake County or in close proximity to the Village to enable cost-effective transport of waste to out-of-County disposal sites which may offer favorable/competitive disposal alternatives.

There is a section on Environmental, Energy and Economic Evaluation of the Village's Solid Waste System. The Village has proposed a solid waste system that includes two components: 1) diversion of waste through recycling and landscape waste collection programs; and, 2) disposal of waste which is not diverted in a regional landfill, with access to such landfills facilitated by development of a transfer station.

There is a Time Schedule for implementation of the Plan. Groot Industries, Inc. has filed a development application with the Illinois Environmental Protection Agency requesting permit approval to develop a construction and demolition debris processing facility at 200 South Porter Drive within the corporate limits of the Village. This facility, if permitted and constructed, will provide recycling of a minimum of 75 percent of the construction and demolition waste it receives on a daily basis. Permit approval for the facility is due from the IEPA in December, 2012, and construction of the facility is expected to occur in 2013.

An application for local siting approval has not been filed for the proposed transfer station as of the date of this Plan. The Village anticipates that an application may be filed in the near future. Should the facility receive local siting approval, IEPA permits for development and operation must be secured before the facility can begin receiving waste. It may take 2-3 years or more to site, permit, construct, and begin to operate the facility.

There is a Sites for Facilities section in the Plan. The collection and processing of recyclables from homes in the Village of Round Lake Park is managed under the Village's hauling contract. Recyclables from the Village's curbside recycling program are currently processed at the Recycle America Material Recovery Facility in Grayslake. The curbside recycling program currently diverts about 25 percent of the residential waste stream.

For the disposal component of the Village's Plan, the Village will rely on the private sector to identify a potential site for the transfer station.

There is a section on Waste Stream Control Measures. The Village's Solid Waste Management Plan relies on private sector investment in collection equipment and disposal facilities. The Village does not anticipate that any waste stream control measures are required to implement the Plan.

The Village of Round Lake Park will be responsible for implementing its Solid Waste Management Plan.

The Village is committed to recycling, as evidenced by its successful curbside recycling program. The Village encourages its businesses to recycle and will continue to do so in the future. The Village further encourages the development of recycling operations within its corporate limits. Should a transfer station be developed with the Village, it may provide additional support to recycling efforts by: 1) including recycling and landscape waste transfer as part of its design and operation, and 2) providing additional funding for recycling programs through a host fee.

Some matters discussed in preparation for the upcoming hearings were a suitable location. Not sure if the Village Hall would be large enough. Also discussed when the best time would be to hold them. Possible locations that were mentioned were Murphy School and the Civic Center. Trustee Seminary offered to check on availability of the Civic Center. Would like to start the hearings before the end of the year, possibly mid November.

Attorney Karlovics passed out a more formal copy of the Pollution Control Facilities Siting Ordinance.

Would like to place the ordinance and Local Solid Waste Management Plan on the next board agenda for approval.

New Business

1. Motion by Trustee Seminary, seconded by Trustee Graham to place on the Consent Agenda, approval of \$15.00 Holiday Gift Cards for Village Employees.
Voice Vote Called
All those in favor-Ayes
All those opposed-None
Absent: Kenyon
Motion Declared Carried
2. Motion by Trustee Graham, seconded by Trustee Seminary to place on the Consent Agenda, approval to close the Village Hall on Saturday, November 24th.
Voice Vote Called

All those in favor-Ayes
All those opposed-None
Absent: Kenyon
Motion Declared Carried

3. Mayor McCue reported that the building inspector had a meeting with one of our residents. At the last adjudication hearing there was a problem with his dogs. During the process of attempting to secure them, Officer Vela was attacked. He issued three citations to the resident. In preparation for constructing a fence on his property, he had a survey done. It appears approximately 6 ft. of our retaining wall at the rear of the Village Hall is on his property. Mayor stated that the wall will need to be taken down. She also will talk to the building inspector about this and advise him to not charge the resident for his building permit.
4. Trustee Lucassen asked if the board would be interested in having their pictures taken for placement in the board room. Rae Ann McCarty has volunteered to take the pictures. Thought it would be a nice idea.

Adjourn

Motion by Trustee Williams, seconded by Trustee Graham to adjourn the committee meeting at 7:05pm.

Voice Vote Called

All those in favor-Ayes

All those opposed-None

Absent-Kenyon

Motion Declared

Respectfully Submitted,
Cynthia Fazekas, Clerk

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of PETITIONER'S MOTION FOR LEAVE TO FILE ITS CONSOLIDATED REPLY IN SUPPORT OF ITS MOTION FOR EXPEDITED REVIEW OF HEARING OFFICER ORDER to be served on the following, via electronic mail transmission, on this 31st day of March, 2014:

Hearing Officer

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Michael S. Blazer
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Petitioner