

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TIMBER CREEK HOMES, INC.)
)
)
) Petitioner,)
) PCB No. 14-99
v.) (Pollution Control Facility
) Siting Appeal)
VILLAGE OF ROUND LAKE PARK,)
ROUND LAKE PARK VILLAGE BOARD)
And GROOT INDUSTRIES, INC.)
)
)
Respondents.)

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

Please take notice that on May 5, 2014 the undersigned caused to be filed electronically with the clerk of the Illinois Pollution Control Board **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S PRESENTATION OF ATTORNEY-CLIENT PRIVILEGE LOG IN RESPONSE TO PETITIONER TIMBER CREEK HOMES' REQUEST TO PRODUCE AND INTERROGATORIES**, a copy of which is attached hereto.

Respectfully Submitted,

On behalf of Round Lake Park Village Board

Peter S. Karlovics

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Gurnee, IL 60031

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S
PRESENTATION OF ATTORNEY-CLIENT PRIVILEGE LOG
IN RESPONSE TO PETITIONER TIMBER CREEK HOMES'
REQUEST TO PRODUCE AND INTERROGATORIES**

Now comes the Respondent, Round Lake Park Village Board ("RLPVB"), by its attorneys, the Law Offices of Rudolph F. Magna, and hereby responds to Petitioner Timber Creek Homes, Inc.'s ("TCH") Interrogatories and Request to Produce with the following Attorney-Client Privilege Log, and requests that the following Attorney-Client Privilege Log be kept confidential, and states as follows:

LAW AND ARGUMENT

Petitioner Timber Creek Homes, Inc. ("TCH") seeks discovery, which includes communications between the Round Lake Park Village Board and its Attorney. Such communications are confidential and subject to attorney client privilege, and as such, are not discoverable. The Round Lake Park Village Board ("RLPVB") seeks to have such communications, attached hereto, protected from disclosure, and kept confidential as communications between attorney and client.

Rule 1.6 of the Illinois Rules of Professional Conduct (“RPC”) provides the basis for the confidentiality of communications between attorney and client, and how such communications cannot be disclosed to third parties. Rule 1.6 of the RPC provides:

ILCS S Ct Rules of Prof.Conduct Rule 1.6

Formerly cited as IL ST CH Rule 1.6; IL ST S CT RPC Rule 1.6

Rule 1.6. Confidentiality of Information

(a) *A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent*, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a crime in circumstances other than those specified in paragraph (c);

(2) to prevent the client from committing fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order.

(c) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm.

(d) Information received by a lawyer participating in a meeting or proceeding with a trained intervener or panel of trained interveners of an approved lawyers' assistance program, or in an intermediary program approved by a circuit court in which nondisciplinary complaints against judges or lawyers can be referred, shall be considered information relating to the representation of a client for purposes of these Rules. (*emphasis* supplied)

“There exists the attorney's rule of confidentiality, which encompasses the attorney-client evidentiary privilege as well as the attorney's fiduciary duty to his client. (See Annotated

Model Rules of Professional Conduct R. 1.6, at 88 (2d ed. 1992).) The rule of confidentiality sets forth what an attorney may, may not, or must ethically reveal about his client...*the rule of confidentiality applies not only during judicial proceedings, but at all times, and to client's secrets, as well as confidences.*” *In re Marriage of Decker*, 153 Ill.2d 298, 314, 180 Ill.Dec. 17, 25, 606 N.E.2d 1094, 1102 (1992). (*Emphasis* supplied)

Rule 1.6 of the RPC, provides that an attorney shall not reveal confidential information from a client, unless the client consents. RLPVB does not consent to the revelation of confidential information. *In Re Marriage of Decker* holds that the rule of confidentiality applies not only during judicial proceedings, but at all times, and to client’s secrets, as well as confidences.” In this case, the log of communications below are a list of items that reflect secrets and confidences between RLPVB and its attorney:

ATTORNEY-CLIENT PRIVILEGE LOG

See attached for actual communications (E001-E055)

1. Email from Glenn Sechen to Peter Karlovics dated 9/28/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E001)
2. Email from Peter Karlovics to Glenn Sechen and Jean McCue dated 9/28/12 (re:Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E002)
3. Email from Glenn Sechen to Peter Karlovics dated 9/28/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E003)
4. Email from Glenn Sechen to Peter Karlovics dated 9/30/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E004)
5. Phone Conference Call between Jean McCue, Glenn Sechen and Peter Karlovics on 10/2/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E005)
6. Email from Glenn Sechen to Peter Karlovics and Jean McCue dated 10/04/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E006)
7. Email from Glenn Sechen to Peter Karlovics and Jean McCue dated 10/06/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E007)

8. Email from Glenn Sechen to Peter Karlovics and Jean McCue dated 10/08/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E008-E009)
9. Email from Glenn Sechen to Peter Karlovics and Jean McCue dated 10/08/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E010)
10. Email from Peter Karlovics to Jean McCue, Cindy Fazekas, Glenn Sechen, and Al Maiden dated 10/26/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E011)
11. Email from Glenn Sechen to Peter Karlovics dated 10/28/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E012)
12. Email from Glenn Sechen to Peter Karlovics dated 10/29/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E013-E014)
13. Email from Peter Karlovics to Glenn Sechen dated 10/29/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E015)
14. Email from Glenn Sechen to Peter Karlovics dated 10/29/12 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E016)
15. E-mail from Glen Sechen to Peter Karlovics dated 01/18/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E017)
16. E-mail from Karen Eggert to Peter Karlovics dated 06/24/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E018-E019)
17. E-mail from Peter Karlovics to Karen Eggert dated 06/25/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E018)
18. E-mail from Peter Karlovics to Linda Lucassen and Karen Eggert dated 06/28/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E020)
19. E-mail from Karen Eggert to Peter Karlovics dated 07/01/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E021-E022)
20. Email from Peter Karlovics to Karen Eggert dated 07/01/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E021)
21. E-mail from Karen Eggert to Peter Karlovics dated 07/05/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E023)
22. E-mail from Peter Karlovics to Karen Eggert, Linda Lucassen and Jean McCue dated 07/05/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E023)
23. E-mail from Peter Karlovics to Linda Lucassen and Jean McCue dated 07/09/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E024)
24. E-mail from Linda Lucassen to Peter Karlovics dated 07/12/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E025)
25. E-mail from Peter Karlovics to C. Fazekas and Karen Eggert dated 07/15/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E026)
26. E-mail from Karen Eggert to Peter Karlovics dated 08/09/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E027)

27. E-mail from Peter Karlovics to Karen Eggert dated 08/09/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E028)
28. E-mail from Linda Lucassen to Peter Karlovics dated 08/11/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E029)
29. E-mail from Karen Eggert to Peter Karlovics dated 08/17/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E030)
30. E-mail from Peter Karlovics to Karen Eggert date 08/17/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E031)
31. E-mail from Karen Eggert to Peter Karlovics dated 09/04/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E032)
32. E-mail from Peter Karlovics to Karen Eggert dated 09/04/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E033)
33. E-mail from Peter Karlovics to Karen Eggert, N. Nelson and C. Fazekas dated 09/13/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E034-E035)
34. E-mail from Karen Eggert to Peter Karlovics dated 09/27/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E036)
35. E-mail from Peter Karlovics to Karen Eggert, Linda Lucassen dated 09/27/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E036)
36. Email from Peter Karlovics to Karen Eggert, C. Fazekas and Linda Lucassen dated 09/29/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E037)
37. E-mail from Karen Eggert to Peter Karlovics dated 10/07/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E038-E039)
38. Email from Peter Karlovics to Karen Eggert dated 10/07/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E038)
39. E-mail from Peter Karlovics to Linda Lucassen dated 11/01/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E040)
40. E-mail from Cindy Fazekas to Peter Karlovics dated 11/08/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E041)
41. Email from Peter Karlovics to Cindy Fazekas dated 11/08/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E041)
42. E-mail from Cindy Fazekas to Peter Karlovics dated 11/08/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E041)
43. Email from Peter Karlovics to Jean McCue and Linda Lucassen dated 12/02/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E042)
44. Email from Candy Kenyon to Peter Karlovics dated 12/05/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E043)
45. Email from Peter Karlovics to Candy Kenyon dated 12/05/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E043)
46. Email from Candy Kenyon to Peter Karlovics dated 12/05/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E043)
47. Email from Karen Eggert to Peter Karlovics dated 12/06/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E044)

48. Email from Peter Karlovics to Karen Eggert dated 12/06/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E044)
49. Email from Jean McCue to Peter Karlovics dated 12/06/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E045)
50. Email from Peter Karlovics to Jean McCue and Linda Lucassen dated 12/06/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E046)
51. Email from Peter Karlovics to Karen Eggert dated 10/25/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E047)
52. Email from Peter Karlovics to Karen Eggert dated 10/25/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E048-E049)
53. Email from Peter Karlovics to Karen Eggert dated 10/28/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E050-E051)
54. Email from Karen Eggert to Peter Karlovics dated 10/28/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E050)
55. Email from Peter Karlovics to Karen Eggert dated 10/28/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E050)
56. Email from Peter Karlovics to Candy Kenyon dated 12/06/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E052)
57. Email from Candy Kenyon to Peter Karlovics dated 12/08/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E052)
58. Email from Peter Karlovics to Linda Lucassen dated 12/09/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E053)
59. Email from Linda Lucassen to Peter Karlovics dated 12/09/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E054)
60. Email from Peter Karlovics to Robert Cerretti dated 12/10/13 (re: Attorney-Client Privileged Material – Groot Lake Waste Transfer Station). (See E055)

WHEREFORE, Respondent, Round Lake Park Village Board, respectfully requests the above Attorney-Client privileged communications be kept confidential, and not released or disclosed to Petitioner Timber Creek Homes, Inc., and that Respondent, Round Lake Park Village Board be granted such further and other relief as deemed just and proper.

Respectfully Submitted,
Village Board of Round Lake Park,
Respondent

By: *Peter S. Karlovics*
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AFFIDAVIT OF SERVICE

The undersigned certifies that on May 5, 2014 a copy of the foregoing **Notice of Filing** and **RESPONDENT ROUND LAKE PARK VILLAGE BOARD'S PRESENTATION OF ATTORNEY-CLIENT PRIVILEGE LOG IN RESPONSE TO PETITIONER TIMBER CREEK HOMES' REQUEST TO PRODUCE AND INTERROGATORIES** were served upon the following:

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