

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.)	

GROOT INDUSTRIES, INC.'S MOTION TO ADOPT

NOW COMES the Respondent, Groot Industries, Inc. ("Groot"), by and through its attorneys, HINSHAW & CULBERTSON, and hereby adopts, as though stated verbatim herein, the entire Motion in Limine of the Village of Round Lake Park, filed on May 12, 2014, and further states as follows:

Petitioner has repeatedly failed to respond in any meaningful way to discovery that would assist the parties in determining the specific nature of Petitioner's claims regarding fundamental fairness, and particularly its claim that the hearing officer usurped the authority of the Village Board by making determinations outside the scope of his authority. Petitioner has similarly failed to shed any light on its allegation that the Village Board failed to make determinations that it was statutorily required to make.

In response to Groot's Interrogatories and Requests for Production regarding the basis for Petitioner's claims of fundamental fairness and pre-adjudication of the merits of the Siting Application, Petitioner merely directed Groot to the findings and recommendations of the hearing officer and other related documents, and has never specified the manner in which Petitioner alleges that order was outside the scope of the hearing officer's authority. Similarly, Petitioner has never specified what determinations the Village Board allegedly failed to make.

Indeed, during a deposition of Petitioner's president, he was asked the basis of Petitioner's claims regarding the hearing officer's exceeding the scope of his authority, which he was directed not to answer on the basis of attorney-client privilege. The Respondents have no more information than they had at the outset of this appeal regarding Petitioner's vague and conclusory allegations that the hearing officer exceeded his authority in making determinations and that the Village Board likewise failed to make required determinations.

Based on Petitioner's repeated failure to provide meaningful discovery responses, and Illinois Supreme Court Rule 219(c), Petitioner should be barred from introducing evidence regarding the alleged usurpation by the hearing officer of the Village Board's authority or the Village Board's alleged failure to make determinations required by statute.

WHEREFORE, Respondent Groot Industries Inc. respectfully moves that Petitioner be barred from introducing evidence regarding determinations of the hearing officer that were allegedly outside his authority and solely within the province of the Village Board.

Dated: May 12, 2014

Respectfully submitted,

On behalf of GROOT INDUSTRIES, INC.

/s/ Richard S. Porter

Richard S. Porter
One of Its Attorneys

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AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

The undersigned certifies that on **May 12, 2014**, a copy of the foregoing **Groot**

Industries, Inc.'s Motion to Adopt was served upon the following:

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by e-mailing a copy thereof as addressed above.



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The undersigned certifies that on **May 12, 2014**, a copy of the foregoing **Notice of Filing**

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