

OAKLAND COUNTY CIRCUIT COURT

MILFORD HILLS PROPERTIES, INC.,  
a Michigan corporation, and  
RPL of MICHIGAN, INC.,  
a Michigan corporation,  
Plaintiffs,

Hon. **D. LANGFORD MORRIS**

v

Case No.: 2017-162642-CZ

CHARTER TOWNSHIP OF MILFORD,  
a Michigan charter township,  
Defendant.

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LAW OFFICE OF PAUL E. BURNS  
Paul E. Burns (P31596)  
Attorneys for Plaintiffs  
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(810) 227-5000

O'CONNOR, DeGRAZIA, TAMM  
& O'CONNOR, P.C.  
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**MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

Plaintiffs Milford Hills Properties, Inc., and RPL of Michigan, Inc., by their attorneys Paul E. Burns and Frederick Lucas move this order compelling defendants, Charter Township of Milford to answer interrogatories and produce documents and in support of this motion state as follows:

1. Plaintiffs served interrogatories and a request for production of documents on defendant on September 11, 2018. A copy of the interrogatories and request for production is attached as Exhibit A and the proof of service is attached as Exhibit B.

2. More than twenty-eight days have passed since these discovery requests were served on defendant and defendant has failed to answer the interrogatories or produce documents.

3. Defendant's refusal to answer interrogatories or to produce the requested documentation is without substantial justification, and plaintiffs are entitled to costs, expenses, and attorney fees in accordance with MCR 2.313(A)(5)(a).

Plaintiffs request the court to enter an order compelling defendant to produce the requested information and to award plaintiff costs, expenses, and attorney fees.

Dated: November 2, 2018

LAW OFFICE OF PAUL E. BURNS

/s/ Paul E. Burns

Paul E. Burns

Attorney for plaintiffs

LUCAS LAW, PC

/s/Frederick Lucas

Frederick Lucas

Co-counsel for plaintiffs

FILED Received for Filing Oakland County Clerk 11/5/2018 9:51 AM

# Exhibit A

# EXHIBIT A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MILFORD HILLS PROPERTIES, INC., a Michigan Corporation, 1042 North Milford Road, Ste. 103, Milford, MI 48381; and RPL of MICHIGAN, INC., a Michigan Corporation, 1042 North Milford Road, Ste. 103, Milford, MI 48381,

Plaintiffs,  
vs.

Hon. D. Langford Morris  
Case No.: 2017-162642-CZ

CHARTER TOWNSHIP OF MILFORD,  
a Michigan charter township,

Defendants.

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LAW OFFICE OF PAUL E. BURNS  
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**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND  
REQUESTS TO PRODUCE DOCUMENTS**

Plaintiffs, MILFORD HILLS PROPERTIES, INC. and RPL OF MICHIGAN, INC., through their attorneys, LAW OFFICE OF PAUL E. BURNS, by PAUL E. BURNS AND BRADFORD L. MAYNES, and LUCAS LAW, P.C. by FREDERICK LUCAS, and in accordance with MCR 2.309 and MCR 2.310 request answers and responses to the following

# EXHIBIT A

Interrogatories and requests for the production of documents in response to Plaintiff's First Set of Interrogatories and Requests to Produce Documents.

## INSTRUCTIONS

1. You must answer each interrogatory separately and fully in writing under oath, unless it is objected to, in which event the reason for the objection must be stated in lieu of the answer.
2. Information to be disclosed includes that which is in the possession of Defendant, Defendant's attorney(s), investigators, agents, employees, officials or any other representatives and their attorney(s).
3. Where an individual interrogatory calls for an answer which involves more than one part, each part of the answer must be clearly set out so that the answers are understandable.
4. Each interrogatory or sub-question must be repeated immediately before the answer to it.
5. Answers must be signed by the person making them.
6. Objections must be signed by the attorney making them.
7. Where the terms "you," "Plaintiff," or "Defendant" are used, they are meant to include every individual party.
8. An evasive or incomplete answer is deemed to be a failure to answer under MCR 2.313(A)(4).
9. You are under a continuing duty to seasonably supplement your answers to these interrogatories with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert witness at trial, or the subject matter on which he or

# EXHIBIT A

she is expected to testify. Further, you are under a continuing duty to correct any incorrect response when you later learn that it is incorrect.

10. DOCUMENT DESTRUCTION: IT IS REQUESTED THAT ALL DOCUMENTS AND/OR OTHER DATA COMPILATIONS WHICH MIGHT IMPACT ON THE SUBJECT MATTER OF THIS LITIGATION BE PRESERVED AND THAT ANY ONGOING PROCESS OF DOCUMENT DESTRUCTION INVOLVING SUCH DOCUMENTS CEASE. If any document requested has previously been destroyed, you are requested to describe in detail the circumstances of and reasons for such destruction and to produce all documents which relate to either the circumstances or the reasons for such destruction.

## DEFINITIONS

As used in these Interrogatories and Request to Produce Document:

- A. With respect to all questions, all information is to be divulged which is within the knowledge, possession, or control by or of Defendant or agent to whom these Interrogatories are addressed, as well as the Defendant's attorneys, investigators, agents, employees, or other representatives. If you cannot answer the following Interrogatories in full after exercising due diligence to secure the full information to do so, so state and answer to the extent possible, specifying your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.
- B. "Defendant" or "You" includes the named Defendant and its agents, employees, or other representatives.

# EXHIBIT A

- C. “Document” includes, without limitation, emails, books, records, writings, notes, letters, correspondences with whomever, memoranda and recordings in possession or control of Defendant or Defendant’s attorneys, investigators, agents, or employees. Such reference to documents includes originals and copies, microfilms and transcripts made, recorded, produced or reproduced by any means and every means. “Document” also includes the content of any applicable computer database and/or digital files.
- D. Where used with respect to documents, “identify” means to give the date, title, origin, author and addressee (where appropriate) to enable Plaintiffs to retrieve it from a file and, further, “identify” means to give the name, address, position or title of the person who has custody of the document. Whenever identification is requested, and Defendant is willing to produce the documents voluntarily for inspection and copying without the necessity of Plaintiffs’ filing a motion to produce, Defendant may respond by stating when and where the document may be inspected, or by attaching a copy of the requested document to the answers to these Interrogatories.
- E. Where appropriate, the singular includes the plural and vice-versa.

## INTERROGATORIES

**INTERROGATORY NO. 1:** As to each person answering these Interrogatories, state:

- (a) Name;
- (b) Title or position with Defendant;
- (c) Business address;
- (d) Length of time employed by Defendant, if employed, or the length of time contracted with Defendant; and
- (e) All other titles, positions, or jobs held with the Defendant.

# EXHIBIT A

**ANSWER:**

**INTERROGATORY NO. 2:** Has the person answering these Interrogatories made reasonable inquiry of all available sources of information such that Plaintiffs may rely on these answers as the truthful and complete answers made on behalf of Defendant?

**ANSWER:**

**INTERROGATORY NO. 3:** Does Defendant have any information tending to establish that Plaintiff made any statement or statements in any form to any person regarding any of the events or happenings referred to in the complaint? If so, state:

- (a) The name and address of the person or persons to whom the statements were made;
- (b) The date the statements were made;
- (c) The form of the statement, whether written, oral, by recording device or to a stenographer;
- (d) Whether the statements, if written, were signed;
- (e) The names and addresses of the persons presently having custody of the statements.

**ANSWER:**



# EXHIBIT A

**INTERROGATORY NO. 4:** Identify each person employed by and/or paid by Defendant who presently has knowledge or had knowledge within the last five years of the income and expenses of providing water and sewage services to users in Township.

**ANSWER:**

**INTERROGATORY NO. 5:** With respect to each person identified in Defendant's answer to Interrogatory No. 4, describe the substance of each person's knowledge.

**ANSWER:**

**INTERROGATORY NO. 6:** Please identify each and every document in your possession, custody or control relating to the purchase and/or development of the property involved in this lawsuit.

**ANSWER:**

**INTERROGATORY NO. 7:** Please identify any and all witnesses that are either employees, agents, experts, officials, or other representatives of or for Defendant with knowledge of the operation and requirements of and for waste water treatment plants in Defendant's jurisdiction, both on-site and off-site. Include the following:

- (a) Name;
- (b) Educational background;
- (c) Employer;

## EXHIBIT A

- (d) Address;
- (e) C.V. if available;
- (f) Job title;
- (g) Duties with respect to the Plant;
- (h) Years of experience.

**ANSWER:**

**INTERROGATORY NO. 8:** Please identify any and all witnesses that are either employees, agents, experts, officials, or other representatives of or for Defendant with knowledge of the operation of the on-site waste water treatment plant at issue in this matter. Include the following:

- (a) Name;
- (b) Educational background;
- (c) Employer;
- (d) Address;
- (e) C.V. if available;
- (f) Job title;
- (g) Duties with respect to the Plant;
- (h) Years of experience.

**ANSWER:**

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**INTERROGATORY NO. 9:** Does the Defendant have or was there in existence any insurance agreements under which any person or company may be liable to satisfy part or all of a judgment which may be entered in this lawsuit or to indemnify or reimburse for payments made to satisfy the judgment?

**ANSWER:**

**INTERROGATORY NO. 10:** If Defendant answered above that it has an insurance policy covering, in part or in full, this lawsuit, set forth the contents of any such insurance agreements including but not limited to the following:

- (a) type of coverage;
- (b) the limits of coverage;
- (c) the policy number;
- (d) the names of all insured;
- (e) the name of the person carrying on an insurance business;
- (f) any deductions or exclusions;
- (g) any provisions relative to payment of costs, interests, and attorney's fees

**ANSWER:**

**INTERROGATORY NO. 11:** Has Defendant employed an expert to act on its behalf in any manner pertaining to this action? If so, as to each expert please state:

- (a) Expert's name and address;

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- (b) Occupation and field of specialization;
- (c) Qualifications;
- (d) Expert's specialty and number of years in practice;
- (e) The service for which you employed said expert;
- (f) Whether you propose to call said expert as a witness;
- (g) Whether said expert has ever been a witness in any other lawsuit and, if so, as to each lawsuit give the name of the suit, the kind of suit involved, the name of the court, the date of filing, and the name and address of the party for whom said expert gave evidence.

**ANSWER:**

**INTERROGATORY NO. 12:** Has Defendant ever been involved in any other legal action regarding on-site waste water treatment plants, either as a plaintiff or defendant, over the last fifteen years? If so, please state:

- a. The date of each lawsuit, the name of any and all parties and the docket number for the case;
- b. A brief description of the nature of the action;
- c. The result of the action, whether or not there was an appeal, the result of the appeal and whether the case was reported.

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**INTERROGATORY NO. 13:** Has Defendant ever entered into a 425 Agreement in the last fifteen years? If so, please state:

- a. The date each agreement was executed;
- b. A description of the nature and terms of the agreement; and
- c. The parties involved in the agreement;

**ANSWER:**

**INTERROGATORY NO. 14:** Please identify each person, group, or entity which reviewed, made a report or recommendation, or was asked to review, make a report or recommendation, concerning the dispute, properties, and/or ordinances involved in this lawsuit.

**ANSWER:**

**INTERROGATORY NO. 15:** Please state the name, address and telephone number of each person who may be called to testify at trial regarding the allegations set forth in Plaintiff's Complaint.

**ANSWER:**

**INTERROGATORY NO. 16:** Please state the name, address, and telephone number of each entity, including but not limited to corporations, companies, persons, and/or developers that Defendant requested to construct an on-site sanitary or waste water sewer plant as a condition of developing property over the last fifteen years.

**ANSWER:**

# EXHIBIT A

**INTERROGATORY NO. 17:** Please state the name, address and telephone number of each entity, including but not limited to corporations, companies, entities, persons, and developers that Defendant requested to construct an on-site sanitary sewer plant as a condition of developing property and who or which retained all or some rights to that plant's excessive capacity.

**ANSWER:**

**INTERROGATORY NO. 18:** Please state every reason, if any exists, for Defendant's refusal to rezone Plaintiff's property at issue in this case to R-1.

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# EXHIBIT A

## PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

**REQUEST NO 1:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials and/or contractors of Defendant regarding negotiations for the construction and use of the on-site sanitary sewer plant created for use with the Ridge Valley Development.

**RESPONSE:**

**REQUEST NO. 2:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials, and/or contractors of Defendant and Plaintiffs' employees or agents regarding the rezoning and/or request for the rezoning of the property at issue in this case.

**RESPONSE:**

**REQUEST NO. 3:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials, and/or contractors of Defendant and any other entity including engineers, etc. regarding the retention of rights to the on-site waste water treatment plant on the property at issue in this case.

**RESPONSE:**

# EXHIBIT A

**REQUEST NO. 4:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum written or received by employees, representatives, agents, officials and/or contractors of Defendant and/or any other individuals, companies, corporations, or entities including engineers, engineering firms, consultants, etc. regarding any proposed or requested 425 agreements to be entered into or enacted on behalf of Plaintiffs and/or the property at issue in this lawsuit.

**RESPONSE:**

**REQUEST NO. 5:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials, and/or contractors of Defendant and employees, contractors, and/or agents of Boss Engineering regarding the development of the Ridge Valley development.

**RESPONSE:**

**REQUEST NO. 6:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials, and/or contractors of Defendant regarding Defendant's refusal to approve the Ridge Valley development unless and until Plaintiff RPL agreed to construct an on-site waste water treatment plant.

**RESPONSE:**



# EXHIBIT A

**REQUEST NO. 7:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by employees, representatives, agents, officials, and/or contractors of Defendant regarding the potential to rezone the property at issue in this lawsuit.

**RESPONSE:**

**REQUEST NO. 8:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum written or received by members of the Milford Planning Commission that mention or refer to Plaintiffs, their employees, agents, or contractors and/or the Ridge Valley development project written, drafted, or sent between January 1, 2016 and August 1, 2018.

**RESPONSE:**

**REQUEST NO. 9:** Please produce any and all correspondence, including but not limited to, emails, documents, and memorandum regarding an independent third-party utility analysis of the existing well and waste treatment plant to determine the capacity of future expansion at or near the property at issue in this lawsuit

**RESPONSE:**

# EXHIBIT A

**REQUEST NO. 10:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum between employees, representatives, agents, officials, and/or contractors of Defendant and any employee, contractor, or agent of Channel 7 News regarding the Ridge Valley development and/or its on-site waste water treatment plant and/or the property at issue in this lawsuit.

**RESPONSE:**

**REQUEST NO. 11:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum between employees, representatives, agents, officials, and/or contractors of Defendant regarding and/or pertaining to the Capacity Agreement entered into with Plaintiffs.

**RESPONSE:**

**REQUEST NO. 12:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum by or between Defendant's employees, representatives, agents, officials and/or contractors that discussed or referenced the opinion that there were too many houses in the Ridge Valley development plan for the project to continue.

**RESPONSE:**

# EXHIBIT A

**REQUEST NO. 13:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum between employees, representatives, agents, officials, and/or contractors of Defendant regarding, referring to, and/or discussing the need and/or decision for the August 31, 2017 second hearing on the Ridge Valley development plan.

**RESPONSE:**

**REQUEST NO. 14:** Please produce any and all correspondence, including but not limited to emails, documents, photographs, studies, reports, and/or memorandum regarding meetings between Plaintiffs and Defendant's officials, employees, agents, representatives and/or contractors between April 27, 2017 and July 30, 2017.

**RESPONSE:**

**REQUEST NO. 15:** Please produce any and all correspondence, including but not limited to emails, documents, photographs, studies, reports, and/or memorandum regarding or referencing any and all meetings or discussions between Plaintiff's and Defendant's officials, employees, agents, representatives, and/or contractors regarding excess capacity and rezoning of the property at issue in this lawsuit.

**RESPONSE:**

# EXHIBIT A

**REQUEST NO. 16:** Please produce any and all correspondence, including but not limited to emails, documents, and memorandum between Defendant's officials, employees, agents, representatives, and/or contractors and home owners, renters, or citizens of the Charter Township of Milford and/or any and all home owners' associations referring to or relating to the property and/or development at issue in this lawsuit.

**RESPONSE:**

**REQUEST NO. 17:** Please produce any and all correspondence, including but not limited to emails, documents, memorandum, studies, and/or reports regarding the water usage and/or sewage discharge and/or waste water discharge of homes in the Ridge Valley Development.

**RESPONSE:**

**REQUEST NO. 18:** Please produce any market studies regarding the development of RO-1 and/or R-1 sized parcel within the Township and/or neighboring areas.

**RESPONSE:**

**REQUEST NO. 19:** Please produce any natural resources analysis for the development of the property at which is the subject of this lawsuit.

**RESPONSE:**

# EXHIBIT A

REQUEST NO. 20: Please produce any traffic studies prepared by or on behalf of Defendant regarding the property which is the subject of this lawsuit.

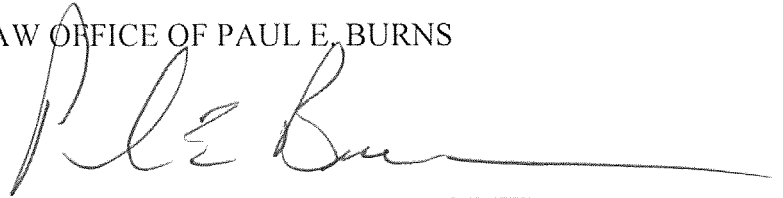
RESPONSE:

REQUEST NO. 21: Please produce any and all documents Defendants rely on (or will rely on) in defense of this lawsuit.

RESPONSE:

Respectfully submitted,

LAW OFFICE OF PAUL E. BURNS



Dated: September 11, 2018

By: Paul E. Burns (P31596)  
Attorney for Plaintiffs  
133 West Grand River Avenue  
Brighton, Michigan 48116  
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# Exhibit B



EXHIBIT B

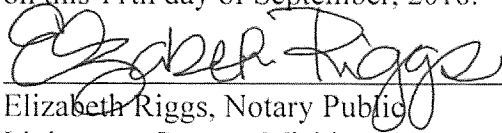
James E. Tamm  
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Attorneys for Defendant  
40701 Woodward Ave., Suite 105  
Bloomfield Hills, Michigan 48304

by electronic mail; and by depositing same in a United States mail receptacle located in Brighton, Michigan, first-class postage fully prepaid.



\_\_\_\_\_  
Pamela Fisher

Subscribed and sworn to before me  
on this 11th day of September, 2018.



\_\_\_\_\_  
Elizabeth Riggs, Notary Public

Livingston County, Michigan

My Commission expires: 06/19/25

Acting in the County of Livingston