

# Memo

**To:** Township Board, Residents  
**From:** Holly Brandt, Clerk  
**Date:** March 15, 2018  
**Re:** Belle Terre Litigation – Milford Hills Properties/RPL of Michigan vs. Charter Township of Milford

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Summary & March Update (new information is highlighted):

Two (2) separate lawsuits were filed against the Township, and they are being handled by the Township's liability insurance carrier. The Township's defense of these matters has been assigned to O'Connor DeGrazia Tamm & O'Connor, PC, and any litigation strategy or negotiation between the parties throughout the course of litigation is exempt from public discussion under the Open Meetings Act.

The Township will post updates regarding procedural matters and any documents that have been filed with the Court, which constitute public records on its website, [www.milfordtownship.com](http://www.milfordtownship.com).

*Milford Hills Properties, Inc and RPL of Michigan, Inc. vs. Charter Township of Milford*, Oakland County Circuit Court Case No. 2017-162642-CZ, filed December 18, 2017 (Hon. D. Langford Morris)

- In 2017, Plaintiffs sought to develop approximately 66 acres of land on the northwest side of North Milford Road, which was zoned Suburban Residential (R1S) and Restricted Office (RO1). Plaintiffs sought conditional rezoning for a Single Family Residential (R1) zoning classification, which was rejected by the Township.
- Plaintiffs filed a Complaint against the Township on December 18, 2017, asserting a jury demand and alleging nine different claims involving promissory estoppel, unconstitutional takings, substantive due process violations, tortious interference, fraudulent misrepresentation and innocent misrepresentation. Plaintiffs asserted damages exceeding \$91,000,000, plus an alleged \$11,000,000 per day for being unable to develop the property.

- The Township filed its Answer and 23 Affirmative Defenses on February 7, 2018, followed up with Interrogatories and a Request to Produce Documents against the Plaintiffs., being filed on February 20, 2018. On February 24, 2018, the Court issued a Scheduling Order, requiring discovery to be complete by September 17, 2018, and setting the matter for case evaluation in October. As a procedural matter, trial has been set for February 25, 2019, but the litigation is still at the beginning stages.

*Milford Hills Properties, Inc. vs. Charter Township of Milford*, Oakland County Circuit Court Case No. 2018-163137-AA, filed January 16, 2018 (Hon. Phyllis McMillen)

- After Plaintiff's request for conditional rezoning was denied by the Township, in order to comply with procedural requirements for stating certain constitutional claims in Michigan, Plaintiff filed an application for a use variance with the ZBA. A hearing was held with the ZBA on December 13, 2017, and the variance was unanimously rejected. Due to time limitations for filing an appeal, Plaintiff has appealed the ZBA decision by filing a Claim of Appeal with the Oakland County Circuit Court. As this type of appeal is not considered a "pleading" under MCR 2.110(A), the ZBA appeal and the lawsuit challenging the denial of the rezoning request cannot be joined.
- Plaintiffs have filed the record on appeal with the Court, and the Township filed an Appearance on February 13, 2018. No further action occurred to date.

The Township Attorney will maintain online links to all pleadings which have been recorded with the Court on the Township website, but the public can also review the procedural status of any litigation and access any pleadings which have been filed related to these matters on Oakland County Circuit Court's website: <https://courtexplorer.oakgov.com/oaklandcounty>.

The Township's legal counsel cannot directly provide legal advice to the residents, and communication regarding litigation strategy and negotiation are exempt from public disclosure, the Township suggests that interested parties consult with separate legal counsel to address any legal questions or concerns that may arise.