

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.

LAW OFFICE OF PAUL E. BURNS
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**DEFENDANT CHARTER TOWNSHIP OF MILFORD'S
INTERROGATORIES AND REQUESTS TO PRODUCE TO PLAINTIFF**

Defendant, CHARTER TOWNSHIP OF MILFORD, by and through its attorneys, O'CONNOR, DeGRAZIA, & TAMM, P.C., and in accordance with MCR 2.309 (B), MCR 2.310(C) and 2.313 (D), hereby submit the following Interrogatories and Request for Production of Documents, the same to be answered in writing and under oath within twenty-eight (28) days.

The answers must include such information as is available to you, or that you can obtain from your employees, agents, representatives, sureties or indemnitors including, where applicable, the knowledge of your attorney.

These Interrogatories and Request to Produce shall be deemed continuing as required by Court Rule, and supplemental answers thereto shall be required if Plaintiff either directly or indirectly obtains further or different information from that upon which the answers are based from the time that they are filed until trial of this matter.

1. Please identify the individual or individuals answering these interrogatories. With respect to each individual, please state:

- a. Your name, and if you have ever used or been known by any other name, please state such other name;
- b. Your present address, and state of residency;
- c. Each of your former addresses for the past ten (10) years together with the dates when you lived at each address;
- d. Your date and place of birth;
- e. Relationship to Plaintiffs.

ANSWER:

2. Please identify each individual and/or entity with an ownership interest in Milford Hills Properties, Inc. With respect to each individual named, please state:

- a. Name;
- b. Address;
- c. Length of association with Milford Hills Properties, Inc.;
- d. Nature of interest in Milford Hills Properties, Inc.

ANSWER:

3. Please state when Milford Hills Properties, Inc. was incorporated, the purpose of its creation, and whether the corporation is limited in any respect.

ANSWER:

4. Please attach a copy of the Articles of Incorporation for Milford Hills Properties, Inc. to your answers to these interrogatories.

ANSWER:

- 5. What is the present occupation of each owner of Milford Hills Properties, Inc.
 - a. List the name and address of your present employer;
 - b. List the names and addresses of your former employers for the past ten (10) years, including the dates of employment.

ANSWER:

6. Describe the formal education, including the names of all schools attended, the dates of graduation, any special training or experience for work in the business or profession of each owner in Milford Hills Properties, Inc.

ANSWER:

7. Please identify each individual and/or entity with an ownership interest in RPL of Michigan, Inc. With respect to each individual named, please state:

- a. Name;
- b. Address;
- c. Length of association with RPL of Michigan, Inc.;
- d. Nature of interest in RPL of Michigan, Inc.

ANSWER:

8. Please state when RPL of Michigan, Inc. was incorporated, the purpose of its creation, and whether the corporation is limited in any respect.

ANSWER:

9. Please attach a copy of the Articles of Incorporation for RPL of Michigan, Inc. to your answers to these interrogatories.

ANSWER:

10. What is the present occupation of each owner of RPL of Michigan, Inc.
- a. List the name and address of your present employer;
 - b. List the names and addresses of your former employers for the past ten (10) years, including the dates of employment.

ANSWER:

11. Describe the formal education, including the names of all schools attended, the dates of graduation, any special training or experience for work in the business or profession of each owner in RPL of Michigan, Inc.

ANSWER:

12. Which entity is the owner of the property involved in this lawsuit? Identify what interest it owns in the subject property?

ANSWER:

13. When was the property involved in this lawsuit purchased and/or a property interest obtained? If not purchased and/or an interest obtained all at one time, please provide the description and dates of purchase for each parcel.

ANSWER:

14. What was your reason for purchasing and/or obtaining an interest in this particular property?

ANSWER:

15. From whom did you purchase and/or obtain a property/development interest in the property involved in this lawsuit?

ANSWER:

16. Please state the purchase price of the property and/or development interest involved in this lawsuit; if parcels were purchased separately, please provide a description and purchase price of each parcel.

ANSWER:

17. Did you, your associates, or any other entity or person have the property appraised before it was purchased and/or a development interest obtained? If so, please state:

- a. The name of the person who made the appraisal;
- b. The date the appraisal was performed;
- c. The value of the property ascribed by the appraiser;
- d. Whether the appraiser of the property was accredited or a member of any professional appraisers society.

ANSWER:

18. What was the zoning classification of this parcel at the time a property/development interests was obtained?

ANSWER:

19. With regard to the property involved in this lawsuit, please state:

- a. The current zoning classification of the property;
- b. Whether you, your agents or employees sought to obtain a special use permit, variance or zoning classification change for the property involved in this lawsuit;
- c. If a zoning change, special use permit, or variance was applied for, please state the date that you applied for the change, the disposition on the application, and the action requested by the application.

ANSWER:

20. What acts or omissions by the defendant do you allege caused damage to your interests in the property which is the subject of this lawsuit?

ANSWER:

21. Please state how the acts or omissions of the defendant adversely affected your interest in the property which is the subject of this lawsuit.

ANSWER:

22. Please list the actions taken by you, your agents or employees to mitigate the damage or harm allegedly done to your interest in this property.

ANSWER:

23. Please state the present market value for the property which is the subject of this lawsuit.

ANSWER:

24. Please itemize all expenses and losses which were incurred by Plaintiffs as a result of the denial of rezoning by Defendant.

ANSWER:

25. Have you employed an expert to act on your behalf in any matter pertaining to this action?

- a. If so, as to each expert please state:
- b. Expert's name and address;
- c. Occupation and field of specialization;
- d. Qualification;
- e. Expert's specialty and number of years in practice;
- f. The service for which you employed said expert;
- g. Whether you propose to call said expert as a witness;
- h. 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:

26. Have you or your agents had this property appraised by licensed professional appraisers in the five (5) years preceding the filing of this lawsuit? If so, for each such appraisal, please state:

- a. The year in which the appraisal was conducted;
- b. The purpose for which the appraisal was conducted;
- c. The appraised value of the property for each year;
- d. The name of the individual who conducted the appraisal and a list of the qualifications of this individual.

ANSWER:

27. Have you commissioned anyone to conduct studies as to the feasibility of developing the property involved in this lawsuit under the existing zoning classification? If the answer to this interrogatory is affirmative, with respect to each such study commission, please state:

- a. The name of the individual conducting the study;
- b. The reason such study was conducted;
- c. The recommendation proposed by this study;
- d. The date which such study was completed;
- e. If you will do so without a Motion to Produce, please attach a copy of any studies or proposals regarding the use of the property involved in this lawsuit.

ANSWER:

28. Please identify each and every document in your possession, custody or control relating to the development of the property involved in this lawsuit for uses permitted under the existing zoning classification.

ANSWER:

29. Please indicate the names of any architect, engineer, real estate consultant or other individual you have consulted regarding the development of the property involved in this lawsuit.

ANSWER:

30. Please attach a copy of any site plan or other document indicating the nature of the proposed development of the property involved in this lawsuit.

ANSWER:

31. Have you ever contacted or corresponded with any individual, bank, savings and loan association, or any other financial institution regarding the financing for the development of the property involved in this lawsuit?

ANSWER:

32. If the answer to the preceding interrogatory is affirmative, as to each such individual, please state:

- a. Individual's name and address;
- b. The name of the individual's employer or the institution with which he or she is associated;
- c. The qualifications of this individual;
- d. The number of years this individual has been involved in the financing of real estate development;
- e. The reason for which you contacted this individual;
- f. Whether you propose to call this individual as a witness.

ANSWER:

33. 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 use of the property involved in this lawsuit.

ANSWER:

34. With respect to each individual named in the preceding interrogatory, please state:
- a. The individual's name and address;
 - b. The individual's occupation and field of specialization;
 - c. The individual's qualification;
 - d. The number of years the individual has practiced in his/her specialty;
 - e. The service for which you employ this individual;
 - f. Whether you propose to call this individual as a witness in this lawsuit.

ANSWER:

35. Have you commissioned or conducted any studies regarding the feasibility of developing the property under any zoning classification other than the existing zoning classification? If the answer to this interrogatory is in the affirmative, with respect to each study, commission by you or conducted by you, please state:

- a. The name and address of the person conducting the study;
- b. The individual's occupation and field of specialization;
- c. The individual's occupation;
- d. The number of years the individual has practiced in this specialty;
- e. The reason for which you employed this individual;
- f. Whether you propose to call this individual as a witness.

ANSWER:

36. Please state the name of any witnesses you plan to call to testify that the defendant is unreasonable, arbitrary or capricious as applied to the property involved in this lawsuit. With respect to each individual named, please state:

- a. The individual's name and address;
- b. The individual's occupation;
- c. The basis of the individual's opinion for stating that the current zoning classification is unreasonable, arbitrary and capricious.

ANSWER:

37. Do plaintiffs contend that the property involved in this lawsuit is suitable only for development under an R-1 zoning classification?

ANSWER:

38. Please identify all real estate owned, operated, or managed by Milford Hills Properties, Inc. With respect to each property please identify:

- a. The address of the property;
- b. The date the property was acquired;
- c. The purchase price for the property;
- d. The current assessed value of the property.

ANSWER:

39. Please identify all real estate owned, operated, or managed by RPL of Michigan, Inc. With respect to each property please identify:

- a. The address of the property;
- b. The date the property was acquired;
- c. The purchase price for the property;
- d. The current assessed value of the property.

ANSWER:

40. Have Plaintiffs or any other entity or individual had the property appraised since it was acquired? If so, please state:

- a. The date the appraisal was performed;
- b. The name of the person performing the appraisal;
- c. The value of the property described by the appraiser;
- d. Please attach a copy of any and all appraisal reports.

ANSWER:

41. Please provide copies of any and all research, market studies, or investigations regarding the market for R-1 residential development on the property at issue in this lawsuit, obtained, commissioned or prepared by or at the request of Plaintiffs.

ANSWER:

42. Please state the present market value for the property which is the subject of this lawsuit.

ANSWER:

43. Please identify any and all expenses incurred by Milford Hills Properties, Inc. in seeking the rezoning of the property which is the subject of this lawsuit.

ANSWER:

45. Please identify any and all expenses incurred by RPL of Michigan, Inc. in seeking the rezoning of the property which is the subject of this lawsuit.

ANSWER:

46. Please identify any and all losses which Milford Hills Properties, Inc. alleges were incurred as a result of the denial of the rezoning request.

ANSWER:

47. Please identify any and all losses which RPL of Michigan, Inc. alleges were incurred as a result of the denial of the rezoning request.

ANSWER:

48. Please produce all tax returns filed on behalf of Milford Hills Properties, Inc. for the last 10 years.

ANSWER:

49. Please produce all tax returns filed on behalf of RPL of Michigan, Inc. for the last 10 years.

ANSWER:

50. Please state the name and address of each and every person known to you or your attorneys having knowledge regarding the facts upon which you base the allegations contained in your Complaint.

ANSWER:

51. Please state the name, address and telephone number of each person who may be called to testify at the time of trial regarding the allegations set forth in the Complaint.

ANSWER:

52. Has Milford Hills Properties, Inc. or any of its owners/members ever been involved in any other legal action, either as a plaintiff or defendant? 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.

ANSWER:

53. Has RPL of Michigan, Inc. or any of its owners/members ever been involved in any other legal action, either as a plaintiff or defendant? 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.

ANSWER:

54. Please identify every correspondence with any individual, bank, savings and loan, or any other financial institution regarding the financing of the development of the property involved in this lawsuit.

ANSWER:

55. Please state the reasons you contend the current zoning classification for the property involved in this lawsuit is unreasonable or arbitrary.

ANSWER:

56. Please identify, with particularity and without reference to the Complaint the factual basis for the claim that the zoning classification applied to Plaintiffs' property has no reasonable relationship to the public health, safety or general welfare and does not advance a legitimate governmental interest.

ANSWER:

57. Please state the basis for the allegation in the Complaint, that Plaintiffs have been deprived of all economically beneficial or productive use of the property based on the current zoning classification.

ANSWER:

58. With respect to any discussions involving excess capacity and rezoning as referenced in Paragraph 15 of the Complaint, please identify the following:

- a. Dates any meeting(s) took place;
- b. Individual(s) present at the meeting(s);
- c. Subject matter of the meeting(s);
- d. Whether any documentation exists to confirm the meeting(s) took place.

ANSWER:

59. Please identify any and all witnesses with knowledge of the operation of the sewer plant at issue in this lawsuit. Include the following:

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

ANSWER:

60. Identify all extra costs Plaintiffs assert are associated with operating the sewer plant below capacity and include the following:

- a. Detailed description and accounting of costs;

- b. Whether the extra materials/water added to the sewer system was mandated by another governmental agency. If so, please explain.

ANSWER:

61. List the number of available lots in the Ridge Valley Development which remain available for development.

ANSWER:

62. Provide any and all dates regarding water usage and sanitary sewer usage for the homes in the Ridge Valley Development, including:

- a. Any gallons of water used per year/month;
- b. Any sewer discharge per home per month/year.

ANSWER:

REQUESTS TO PRODUCE

1. Please produce articles of incorporation for Milford Hills Properties, Inc.

RESPONSE:

2. Please produce articles of incorporation for RPL of Michigan, Inc.

RESPONSE:

3. Please produce any and all purchase agreements and/or sales agreements for the property which is the subject of this lawsuit.

RESPONSE:

4. Please produce any and all documents identifying Plaintiffs' interest in the property which is the subject of this lawsuit.

RESPONSE:

5. Please produce any and all correspondence between Defendant and Plaintiffs regarding the Ridge Valley Development.

RESPONSE:

6. Please produce any and all correspondence, documents, memorandums between Plaintiffs and the Defendant Township regarding the on-site sanitary sewer plant for the Ridge Valley Development.

RESPONSE:

7. Please produce any and all correspondence, documents, memorandums between Plaintiffs and the Michigan Department of Environmental Quality regarding the on-site sanitary sewer plant for the Ridge Valley Development.

RESPONSE:

8. Please produce any and all correspondence, documents, memorandums, photographs and recordings between Plaintiffs and any other entity including engineers, etc. regarding the on-site sanitary sewer plant for the Ridge Valley Development.

RESPONSE:

9. Please produce any and all correspondence, documents, memorandums, photographs and recordings in support of Paragraph 15 of the Complaint which provides “[i]n the discussions regarding Excess Capacity, contemporaneously with the negotiation of the Capacity Agreement, it was contemplated by the parties to the Capacity Agreement that the Property would be rezoned to R-1, to permit full utilization of the Excess Capacity.”

RESPONSE:

10. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports in support of Plaintiffs’ position that the Plant has capacity to serve an additional 182 homes.

RESPONSE:

11. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support Plaintiffs’ claim of additional expenses in operating the Plant below capacity.

RESPONSE:

12. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support Plaintiffs' claim that RO-1 and R-1-S zoning classifications are mutually inconsistent as alleged in Paragraph 31 of the Complaint.

RESPONSE:

13. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that the property which is the subject of this lawsuit cannot be developed consistent with the RO-1 and R-1-S zoning classification.

RESPONSE:

14. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports regarding meetings between Plaintiffs and Township officials between April 27 and June 30, 2017 as alleged in Paragraph 33 of the Complaint.

RESPONSE:

15. Please produce any traffic studies prepared by or on behalf of Plaintiffs addressing the Ridge Valley Development.

RESPONSE:

16. Please produce any traffic studies prepared by or on behalf of Plaintiffs regarding the property which is the subject of this lawsuit.

RESPONSE:

17. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support Plaintiffs' claim that they were told by "Township Staff and Officials that there were 'just too many houses' in the plan" as alleged in Paragraph 43 of the Complaint.

RESPONSE:

18. Please produce any natural resources analysis for the development of the property which is the subject of this lawsuit.

RESPONSE:

19. Please produce any market studies regarding the development of R-1-S sized parcels within the Township and/or neighboring areas.

RESPONSE:

20. Please produce any market studies regarding the development of RO-1 and/or R-1 sized parcels within the Township and/or neighboring areas.

RESPONSE:

21. Please produce any and all documents supporting Plaintiffs' claim that they have suffered damages in an amount exceeding \$4,123,199.00 plus \$565 per day.

RESPONSE:

22. Please produce any and all documents supporting Plaintiffs' claim that they have suffered damages in an amount exceeding \$91,000,000.00 plus \$11,000 per day pertaining to the property which is the subject of this lawsuit as alleged in Paragraph 88 of the Complaint.

RESPONSE:

23. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support the allegation contained in Paragraph 107 of the Complaint that "Milford falsely represented that it would rezone the Property to allow full utilization of excess capacity in the Plant."

RESPONSE:

24. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support the allegation contained in Paragraph 108 of the Complaint that "Milford knew that it had no intention of rezoning the Property, or recklessly made the representation that it would do so."

RESPONSE:

25. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports that support the allegation contained in Paragraph 113 of the Complaint that "[t]he misrepresentations were made in connection with forming a contract, namely the Capacity Agreement."

RESPONSE:

26. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports regarding the water usage and/or sewage discharge of homes in the Ridge Valley Development.

RESPONSE:

27. Please produce any and all correspondence, documents, memorandums, photographs, studies, and/or reports regarding the alleged “excess costs” associated with operating the sewer plant.

RESPONSE:

O’CONNOR, DeGRAZIA, TAMM & O’CONNOR, P.C.

By: /S/ Richard V. Stokan, Jr.

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DATED: February 20, 2018

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018, I electronically filed the foregoing paper(s) with the Clerk of the Court using the MiFile electronic filing system which will send notification of such filing to the following: ***Bradford Maynes and Frederick Lucas*** and I hereby certify that I have mailed by United States Postal Service the Paper(s) to the following non-TrueFiling participants: None.

/S/ Jemmis F. Lawrence(jflawrence@odtlegal.com
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