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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF ORANGE

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TOWN OF WOODBURY and the TOWN OF
WOODBURY TOWN BOARD,

Plaintiffs,

-against-

Index No.
EF006036-2018

VILLAGE OF WOODBURY, VILLAGE OF WOODBURY
BOARD OF TRUSTEES and ORANGE COUNTY,

Defendants.

-----x

EXAMINATION BEFORE TRIAL of the Defendant,
VILLAGE OF WOODBURY BOARD OF TRUSTEES, by and through
ANTHONY E. MICKOLAJCZYK, III, held on June 26th, 2019,
at 11:15 a. m., at the offices of Catania, Mahon,
Milligram & Rider, PLLC, One Corwin Court, Newburgh,
New York, pursuant to Court Order, before a Notary
Public of the State of New York.

KIM A. ZGRODEK
PROFESSIONAL COURT REPORTER
PO BOX 600, MARLBORO, NEW YORK 12542
845-642-8633

1 A P P E A R A N C E S:

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By: RICHARD M. MAHON, II, ESQ.,
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Village of Woodbury Board
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ORANGE COUNTY ATTORNEY'S OFFICE
Attorney for Defendant
Orange County.
255-275 Main Street
Goshen, New York 10924
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(No appearance)

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by
and between the parties hereto, through their
respective counsel, that sealing, certification
and filing shall be waived;

It is further stipulated and agreed that
all objections except as to the form of the
question and responsiveness of the answer shall
be reserved to the time of trial;

It is further stipulated and agreed that the
transcript of testimony may be signed before any
notary public or other officer authorized to
administer oaths;

It is further stipulated and agreed that the
examining party will furnish the examined party
with a copy of the transcript of testimony free
of charge.

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ANTHONY E. MICKOLAJCZYK, III,

having been first duly sworn by the notary public,
was examined and testified as follows:

BY MR. MAHON:

Q Would you state your name for the record, please?

A Anthony E. Mickolajczyk, III.

Q Good morning, Mr. Mickolajczyk.

A Good morning.

Q My name is Richard Mahon and I'm representing the
Plaintiffs in this case and that's the Town and
the Town Board members for the Town of Woodbury.
We've already had probably nine or ten depositions
and we're going to finish them all today.

I'm going to be asking you questions about
this ongoing litigation and I'm going to be
showing you exhibits and asking you questions
about exhibits and just asking you what you know
and what you don't know.

If I ask you a question that you don't
understand, please let me know. I'd be happy to
rephrase it. If you want to take a break, I'm
okay with that as long as we don't take a break in
the middle of a pending question. Okay.

At a deposition witnesses will tend to nod

(Anthony E. Mickolajczyk, III)

1 their heads or shake their heads. If you could
2 make sure that all of your responses are verbal,
3 then we'll have a clear record. Okay?

4 A Okay.

5 Q Are you currently employed, sir?

6 A I am.

7 Q By whom?

8 A I'm employed by Clip Strip Corp. of Hackensack,
9 New Jersey.

10 Q And what do you do generally for a living?

11 A I'm a financial controller.

12 Q And you're a member of the village board of the
13 Village of Woodbury?

14 A I was.

15 Q And how long did you serve on the board?

16 A I served on the board for just about three years.

17 Q It was three years continuously?

18 A Yes.

19 Q And when did you go off the board?

20 A The end of December 2018.

21 Q Did you look at any documents to get yourself
22 ready for the deposition today?

23 A I just looked back at the agenda for that meeting,
24 the minutes for that meeting and any notes that I

1 had made.

2 Q Okay. When you say that meeting you're talking
3 about a meeting of the village board, is that
4 correct?

5 A Right. The village board meeting. I believe it
6 was July 27th.

7 Q That's correct?

8 A 2017.

9 Q And I will show that and I'll ask you questions
10 about that. That's fine. I'm going to show you
11 what's been marked as Plaintiff's Exhibit 1
12 previously at our other depositions. Please take
13 a moment and look at that and tell me if you
14 recognize what is depicted there.

15 A That would appear to be the highway department
16 building.

17 Q I'm going to show you a blown up version of that.

18 A The senior center.

19 Q It's much easier to read. I've spread out before
20 you also Plaintiff's Exhibit 8 which is a larger
21 version of Plaintiff's Exhibit 1.

22 A Okay.

23 Q Do you see that?

24 A Yeah.

1 Q Before this litigation started had you seen a copy
2 of this map before?

3 A Not that I recall, no.

4 Q Are you seeing this for the first time now?

5 A Yes. I believe so.

6 Q Do you recognize what is depicted on Plaintiff's
7 Exhibit 8, this map here?

8 A I do, yes.

9 Q And what do you recognize it to be?

10 A It's the library-senior center on Route 105, the
11 highway garage, the salt barn and I live right
12 over here. (Indicating).

13 Q Okay. So you know the area quite well I imagine?

14 A Yup.

15 Q And in this litigation there has been talk about a
16 land swap or a land exchange. You're aware of
17 that generally?

18 A Yes.

19 Q Did you have a chance to read the pleadings in the
20 case, meaning the Verified Complaint and the
21 Answer?

22 A I did browse the Complaint I think when it was
23 first issued but that was quite some time ago.

24 Q And you understand that part of the properties

(Anthony E. Mickolajczyk, III)

1 that are involved in the litigation are shown here
2 depicted on Plaintiff's Exhibit 8?

3 A Yes.

4 Q Meaning the garage and what people have called the
5 salt shed, it says salt barn but I've heard
6 everybody refer to it as a salt shed.

7 I'm going to show you now what's been marked
8 as Plaintiff's Exhibit 6. Please take a moment
9 and look at that.

10 You have in front of you Plaintiff's Exhibit
11 6?

12 A Uh-huh.

13 Q Do you recognize that document?

14 A I do.

15 Q What do you recognize it to be?

16 A The minutes from the village board meeting held at
17 town hall on July 27th, 2017.

18 Q And before when you said you had looked at the
19 minutes you were referring to this document, is
20 that correct?

21 A Yes.

22 Q And on the very first page of this exhibit it
23 indicates who was present there and I see that
24 your name is indicated. So is it fair to say you

1 were present at this meeting on July 27th, 2017?

2 A Yes.

3 Q I'm going to now refer you, take a look at the
4 bottom of page two of Plaintiff's Exhibit 6.

5 A Uh-huh.

6 Q There is an agenda item, it's under II, Old
7 Business, small letter B, authorize mayor to sign
8 land exchange with Town of Woodbury. Do you see
9 that?

10 A Yes.

11 Q And it carries over to the next page. There was a
12 motion made by Trustee Egan, seconded by Trustee
13 Crouse and I'm going read a portion and then ask
14 you a question on it. Okay?

15 A Okay.

16 Q It says "To authorize the mayor to sign any and
17 all documents relating to a property exchange with
18 the Town of Woodbury as follows, upon final
19 preparation, review and authorization by counsel."
20 Do you see that?

21 A Uh-huh.

22 Q Is that yes?

23 A Yes. I'm sorry.

24 Q I told you it would happen.

1 A Yes.

2 Q And then it says "From the town to the village
3 section 219, block 5, lot 21 and a portion of lot
4 20" and it says in (highway garage and salt shed).
5 Do you see that?

6 A Yes.

7 Q And it says from the village to the town section
8 204-1-30, (Earl's Reservoir). Do you see that?

9 A Yes.

10 Q That portion I read that said upon final
11 preparation, review and authorization by counsel,
12 when you voted on this did you have an
13 understanding of what that meant?

14 A I understood it to mean exactly what it means
15 although I don't remember if that was the exact
16 verbiage that was used at the meeting but yeah.

17 Q Okay. What is your understanding of what that
18 means?

19 A Upon final preparation, review and authorization
20 by counsel, I would imagine that would refer to
21 the related documents that would have to be filed
22 to exchange the land.

23 Q Right. At the time did your board, your village
24 board have an attorney?

1 A Did we have an attorney? We've always had an
2 attorney.

3 Q Well, who was your attorney -- for the purposes of
4 this meeting at that time on July 27th, 2017 who
5 was the attorney representing the village board?

6 A I don't remember specifically who was there that
7 day. It was probably either Mr. Golden or one of
8 his associates.

9 Q So when it said upon final preparation, review and
10 authorization by counsel did you have an
11 understanding then of which counsel would be doing
12 that?

13 A Well, I would assume that would have been our
14 counsel since it was referring to the village's
15 action.

16 Q Do you know if that event took place, if there in
17 fact was a preparation, review and authorization
18 by counsel?

19 A No. I do not.

20 Q Did anyone ever tell you that it took place?

21 A No.

22 Q And the portion I read to you, and looking at that
23 same motion where it says from the town to the
24 village section 219, block 5, lot 21 and a portion

1 of lot 20, do you see that?

2 A Yes.

3 Q Did you as a village board member know what
4 portion of lot 20 would be coming to the village?

5 A No.

6 Q Did anybody ever give you a metes and bounds
7 description of what portion of lot 20 you'd be
8 getting?

9 A No.

10 Q Well, if that's the case and you didn't know what
11 portion that the village was going to be getting
12 why did you vote for that?

13 MR. GOLDEN: Objection to the form.

14 Q Do you understand what I'm asking?

15 A Yes.

16 Q I mean if you're going to get a hundred acres or
17 five acres or ten acres if you didn't know the
18 portion why did you vote for it?

19 A Why did I vote for it? I voted for it because my
20 understanding was this was a good deal for the
21 town and the village to exchange property. The
22 village had control of the highway department and
23 the town owned the land.

24 Q Right. Well, since it says a portion of lot 20

1 did you expect that at some point after this
2 meeting you would learn what portion of lot 20
3 that would be?

4 A I had no expectation.

5 Q Did you expect to receive a copy of a map to show
6 what portion you were going to receive?

7 A No.

8 Q Did you expect to see copies of deeds that would
9 show the property being conveyed?

10 A No.

11 Q And did you in fact -- you said you didn't expect
12 that but just to be clear in fact you never
13 received that either, is that correct?

14 A That's correct.

15 Q I'm going to show you two documents that were also
16 marked previously at the other depositions.

17 There's a Plaintiff's Exhibit 3 and a Plaintiff's
18 Exhibit 5 which other witnesses have identified as
19 deeds that relate to this land swap transaction.

20 Take a moment and look at Plaintiff's Exhibit 5
21 and Plaintiff's Exhibit 3, if you would.

22 I'd just ask you generally have you ever seen
23 these documents before?

24 A I don't believe I have.

1 Q Okay.

2 A Unless this was included in the filing that I
3 briefly saw but I never received these documents
4 or saw these documents before separately, no.

5 Q And we were looking before at Plaintiff's Exhibit
6 6, that was the July 27th, 2017 minutes of the
7 village board meeting and we walked through the
8 motion that was made there and the motion referred
9 to the transfer and so I just want to be crystal
10 clear, you never saw the deeds of transfer at any
11 time before they were recorded, is that correct?

12 A Absolutely not.

13 Q And did you receive -- did you see the deeds of
14 transfer after they were recorded?

15 A I have right now.

16 Q But before coming here today you didn't see them
17 before?

18 A Not that I'm aware of, no.

19 Q Plaintiff's Exhibit 8, the large map you have in
20 front of you, if you look down on the bottom
21 right-hand side in the legend it says Steven J.
22 Green, PLS. Do you see that?

23 A Yes.

24 Q Do you know who Steven Green is?

1 A No. I do not.

2 Q You've never met him before in your life?

3 A Not that I'm aware of.

4 Q And you've never seen a map, a survey map or a
5 plot plan that he's prepared before?

6 A Not that I recall. I've seen plenty of survey
7 plots but I do not recall ever seeing one with
8 that particular name on it.

9 MR. MAHON: Okay. I have no further
10 questions.

11 MR. GOLDEN: I have no questions.

12 (Whereupon, the examination of
13 Anthony E. Mickolajczyk, III was concluded.)

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(Anthony E. Mickolajczyk, III)

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STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

I have read the foregoing record of my testimony
taken at the time and place noted in the heading
hereof and I do hereby acknowledge it to be a
true and correct transcript of same.

Anthony E. Mickolajczyk,

III

Sworn to before me this
_____ day of _____, _____.

Notary Public

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I N D E X

EXAMINATION BY:

PAGE:

Mr. Mahon

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EXHIBITS MARKED FOR ID:

(None)

INFORMATION TO BE SUPPLIED/FILLED IN:

(None)

QUESTIONS MARKED FOR RULINGS:

(None)

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C E R T I F I C A T I O N

I, Kim A. Zgrodek, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.



Kim A. Zgrodek

<p>BY MR. MAHON: [1] 4/4 MR. GOLDEN: [2] 12/13 15/11 MR. MAHON: [1] 15/9</p>	<p>C carries [1] 9/11 Catania [2] 1/16 2/4 Clip [1] 5/8 controller [1] 5/11 Corwin [2] 1/17 2/5 Crouse [1] 9/13 crystal [1] 14/9</p>	<p>meant [1] 10/13 metes [1] 12/6 MICKOLAJCZYK [6] MIELE [1] 2/9 Milligram [2] 1/17 2/4 morning [2] 4/7 4/8 motion [4] 9/12 11/23 14/8 14/8 Mr. Golden [1] 11/7</p>
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