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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 Under Oath of Non Party Witness,
RICHARD B. GOLDEN, held on June 28th, 2019, at 10:00
a. m., at the offices of Catania, Mahon, Milligram
& Rider, PLLC, One Corwin Court, Newburgh, New York,
pursuant to Notice, 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:

2

3 CATANIA, MAHON, MILLIGRAM & RIDER, PLLC
4 Attorneys for Plaintiffs
5 One Corwin Court
6 PO Box 1479
7 Newburgh, New York 12551
8 (845)565-1100
9 By: RICHARD M. MAHON, II, ESQ. and
10 LIA E. FIERRO, ESQ.,
11 of Counsel.

12

13 BURKE, MIELE, GOLDEN & NAUGHTON, LLP
14 Attorneys for Defendants
15 Village of Woodbury and
16 Village of Woodbury Board
17 of Trustees.
18 40 Matthews Street
19 Suite 209
20 P. O. Box 216
21 Goshen, New York 10924
22 (845)294-4080
23 By: KELLY M. NAUGHTON, ESQ.,
24 of Counsel.

25

26 ORANGE COUNTY ATTORNEY'S OFFICE
27 Attorney for Defendant
28 Orange County.
29 255-275 Main Street
30 Goshen, New York 10924
31 (845)291-3150
32 (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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RICHARD B. GOLDEN,

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

BY MR. MAHON:

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

A Richard B. Golden. 40 Matthews Street, Suite 209,
Goshen, New York, 10924.

Q Since you are one of the elder statesmen of the
Orange County Bar I won't give you any
instructions but I'm going to be asking you
questions about this matter, factual questions,
and we have tried to avoid any kind of issues that
relate to the attorney-client privilege and so
I'll try to continue in that mode. Okay?

A Yes.

Q In 2017 did you or your firm represent the village
board of the Village of Woodbury?

A On certain matters.

Q What matters were those?

A As assigned.

Q Did you also represent the village planning board?

A Yes. Not me individually. Our firm did. I was
there at most of the meetings but also Kelly

1 Naughton to my left also represented the board
2 from the time at meetings.

3 Q Were you considered the attorneys for the village
4 in 2017?

5 A On certain matters. They had several attorneys
6 that they assigned matters to. We were one of
7 those.

8 Q And in my experience I know that there's a
9 difference between village attorney and attorney
10 for the village. Was there a village attorney
11 acting in 2017 for the village?

12 A To my knowledge there's never been a village
13 attorney for the Village of Woodbury since its
14 incorporation.

15 Q Okay. I'm going to show you two documents
16 previously marked at depositions. One is
17 Plaintiff's 3 and one is Plaintiff's 5. Take a
18 moment and look at those, if you would.

19 A Okay. I've reviewed them quickly.

20 Q Let's take a look first at Exhibit 3. Before this
21 litigation commenced had you seen a copy of this
22 document before?

23 A No.

24 Q When for the first time did you receive or review

1 a copy?

2 A Probably shortly after the litigation when we were
3 asked to represent the Village of Woodbury.

4 Q So is it fair to say that your firm or you
5 personally or anybody acting on your behalf took
6 no part in the preparation or the recording of
7 these deeds?

8 A That's correct. Are you talking just about 3
9 or -- you used plural.

10 Q 3 and 5.

11 A That's correct.

12 Q Do you know an individual named David Sutz?

13 A I do.

14 Q And how do you know him?

15 A I know him from when we were representing the
16 Village of Woodbury was I believe the first time
17 that I met David.

18 Q Have you ever spoke to him personally at any time
19 before the lawsuit started concerning the land
20 swap transaction?

21 A No.

22 Q Have you ever spoken to him personally after the
23 litigation started concerning the land swap
24 transaction or any of the allegations in this

1 case?

2 A The answer is generally no. My only exception to
3 that is I can't remember whether or not I asked
4 David anything at the deposition the other day but
5 that would have been the only interaction which
6 was on the record. I have not otherwise spoken to
7 David.

8 Q So just to be clear then the deeds, Exhibits 3 and
9 5, Plaintiff's Exhibits 3 and 5 are both dated
10 August 18th, 2017. Between that date and seeing
11 David Sutz here at his deposition is it fair to
12 say that you had no conversation or contact with
13 him concerning the transactions in dispute?

14 A That's correct.

15 Q I'm going to show you what's been marked as
16 Plaintiff's Exhibit 1. Take a moment and look at
17 it if you would. Do you recognize that document?

18 A From -- yes. I do recognize the document.

19 Q Did you see that document or a larger copy
20 thereof -- we'll put out Plaintiff's Exhibit 8
21 which is a larger copy of it, did you see either
22 Plaintiff's 1 or Plaintiff's Exhibit 8 before
23 commencement of this lawsuit?

24 A No.

1 Q You'll notice on Plaintiff's Exhibit 8 there is
2 the name Steven Green, PLS and I believe he was a
3 gentleman who also testified here on Wednesday.
4 Do you know Steven Green?

5 A I do.

6 Q How do you know him?

7 A I believe the first time I met Mr. Green was while
8 I was county attorney for Orange County.

9 Q Okay. And I believe he testified that he's worked
10 for the county for 27 years?

11 A That's what he testified yesterday, yes.

12 Q Yes. First of all, do you recognize Plaintiff's
13 Exhibit 8?

14 A Only in connection with my work in this lawsuit.

15 Q Is it fair to say that you had no contact or
16 conversations with Mr. Green concerning the
17 preparation of Plaintiff's Exhibit 8?

18 A That's correct.

19 Q I'm going to show you what's been marked as
20 Plaintiff's Exhibit 6. If you'd take a moment and
21 look at that. And just for the record that's a
22 copy of minutes of a village board meeting from
23 July 27, 2017.

24 A Yes.

1 Q Do you recognize that document?

2 A From my work in this lawsuit, yes.

3 Q On the date these minutes were generated -- well,
4 on the date of the exhibit, Exhibit 6, which is
5 July 27th, 2017 were you or was someone from your
6 firm in attendance at that village board meeting?

7 A I was not and it doesn't appear that anybody from
8 my firm was as well.

9 Q Okay. In 2017 did your firm have occasion from
10 time to time to attend village board meetings?

11 A I don't recall specifically. Over the years it is
12 not unusual for there to be an occasion in our
13 representation of the village board to sometimes
14 show up at village board meetings. I don't recall
15 specifically in 2017 whether any of those
16 occasions arose.

17 Q Before this litigation commenced did you review or
18 receive a copy of Plaintiff's Exhibit 6?

19 A It's possible that I received a copy of this
20 because I may be on a generalized e-mail list of
21 the village clerk that sends out minutes routinely
22 of every meeting.

23 Q You've been here for all of the different
24 depositions we've had to date and you've heard

1 that between 2016 and 2017 there were discussions
2 between Mayor Michael Queenan and Town Supervisor
3 David Sutz concerning the land swap exchange?

4 A I've heard that testimony, yes.

5 Q Okay. My question for you is were you aware that
6 these discussions were going on in 2016 and 2017
7 between David Sutz and Michael Queenan?

8 A No.

9 Q Is it fair to say that you learned that for the
10 first time after the lawsuit commenced?

11 A That's correct.

12 Q Do you know someone named Maria Hunter?

13 A Yes, I do.

14 Q How do you know her?

15 A I've known Maria since we began representing the
16 planning board in Woodbury when it was still the
17 town board -- when it was planning board of the
18 Town of Woodbury prior to the incorporation of the
19 Village of Woodbury.

20 Q How long have you or your firm done work for the
21 Village of Woodbury?

22 A For the Village of Woodbury since its inception.
23 We were the first attorneys for the Village of
24 Woodbury.

1 Q Okay. Do you know how long that is approximately?

2 A I believe it's either 2006, 2007. Somewhere
3 around there.

4 Q So is it fair to say that you were -- in 2017 that
5 you or your firm represented the Village of
6 Woodbury planning board?

7 A Yes.

8 Q And during that period she was the chairperson of
9 the planning board?

10 A That's correct.

11 Q This transaction, the land swap transaction, that
12 was not a transaction that you were asked to
13 review from a legal standpoint in 2017, is that
14 fair to say?

15 A Yes.

16 Q Did you have any discussions with Maria Hunter
17 about this transaction?

18 MS. NAUGHTON: Objection.

19 Privileged. You don't have to answer.

20 Q Okay. Well, you just mentioned to me that this
21 was not a transaction that your firm rendered
22 legal advice on.

23 A That's correct.

24 Q Okay. Let me ask you this, did you have any

1 transactions with Maria Hunter before the lawsuit
2 started concerning the deeds or the map that
3 you've looked at today?

4 MS. NAUGHTON: Objection.

5 MR. MAHON: What's the basis for the
6 objection?

7 MS. NAUGHTON: Privilege.

8 MR. MAHON: Okay.

9 BY MR. MAHON:

10 Q Were you representing the village or Maria Hunter
11 with respect to the land swap transaction?

12 A I've never represented Maria Hunter with respect
13 to anything and I have not -- was never
14 representing the Village of Woodbury with respect
15 to this transaction.

16 MR. MAHON: Okay. So his
17 conversations concerning the transaction
18 at a time when he never represented the
19 village, I don't see how they're
20 attorney-client privilege unless you
21 object.

22 MS. NAUGHTON: Well, he's providing
23 advice. He would be if he was providing
24 advice to a chairwoman on duties --

1 MR. MAHON: Right.

2 MR. GOLDEN: -- connected to the
3 planning board relative to a subdivision
4 map which is within the planning board
5 chairwoman's jurisdiction.

6 MR. MAHON: Right. I understand what
7 you're saying, Kelly, but this map never
8 came before the planning board. It was
9 never an application and at the time the
10 map was drafted he didn't represent the
11 village with respect to this map or this
12 transaction. Period.

13 A That may be true but that still doesn't rule out
14 the fact of any conversation that I have with a
15 planning board chair, my client, as the chairwoman
16 of the planning board with respect to any matter
17 that she inquires of legal advice concerning a
18 matter of whether or not something is either
19 within or without her jurisdiction. That still is
20 legal advice.

21 BY MR. MAHON:

22 Q Okay. So you're going to decline to answer that
23 question then?

24 A That's correct. On advise of counsel.

1 Q I may have asked this earlier but I just want to
2 be clear for the record. Did you ever have any
3 discussion with David Sutz concerning Plaintiff's
4 Exhibit 8 or a map with respect to the land swap
5 transaction?

6 A No.

7 MR. MAHON: Do you have any
8 questions?

9 MS. FIERRO: No. I mean with respect
10 to the privilege issue I don't know if the
11 instance of a phone call or the instance
12 of a conversation is privileged. The
13 content and the subject of the call may be
14 privileged. I can understand that
15 argument but I don't see that just that
16 one question or the fact of there having
17 been a phone call at a certain date or
18 time is privileged. I don't think that
19 that is protected by the privilege. I
20 don't know if we want to explore that
21 further. If you're satisfied then we can
22 leave that.

23 A Well, I will tell you in response to that I have
24 had many, many, many telephone conversations with

1 Maria Hunter with respect to planning board
2 matters including but not limited to whether or
3 not something was within or without the
4 jurisdiction of the planning board.

5 BY MR. MAHON:

6 Q Okay.

7 A But I'm not going to speak about any particular
8 conversation and what the topic of that
9 conversation was. I believe both of those are
10 privileged.

11 Q Okay. That's fair enough. I had asked you about
12 your conversations with David Sutz about the land
13 swap transaction. Did you have any conversations
14 whether in 2017 to the present with town board
15 members about the land swap transaction?

16 A Other than in connection with my representation of
17 the village in connection with this lawsuit, no.

18 MR. MAHON: Okay. I don't have any
19 further questions, Rick. Thanks.

20 (Whereupon, the examination of
21 Richard B. Golden was concluded.)

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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.

Richard B. Golden

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

Notary Public

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EXAMINATION BY:

PAGE:

Mr. Mahon

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EXHIBITS MARKED FOR ID:

(None)

INFORMATION TO BE SUPPLIED/FILLED IN:

(None)

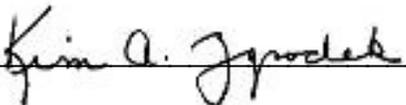
QUESTIONS MARKED FOR RULINGS:

(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: [4] 4/4 12/9 13/21 15/5 MR. GOLDEN: [1] 13/2 MR. MAHON: [7] MS. FIERRO: [1] 14/9 MS. NAUGHTON: [4] 11/18 12/4 12/7 12/22</p>	<p>C Catania [2] 1/15 2/3 chair [1] 13/15 chairperson [1] 11/8 chairwoman [2] 12/24 13/15 chairwoman's [1] 13/5 clerk [1] 9/21 commenced [3] 5/21 9/17 10/10 commencement [1] 7/23 Corwin [2] 1/16 2/4</p>	<p>M Mahon [4] 1/15 2/3 2/6 17/5 mail [1] 9/20 map [6] Maria [7] MARLBORO [1] 1/23 Matthews [2] 2/11 4/7 Mayor [1] 10/2 Michael [2] 10/2 10/7 MIELE [1] 2/9 Milligram [2] 1/15 2/3 mode [1] 4/15 Mr. Green [2] 8/7 8/16</p>
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<p>2 2016 [2] 10/1 10/6 2017 [13] 2018 [1] 1/7 2019 [1] 1/14 209 [2] 2/12 4/7 216 [1] 2/12 255-275 [1] 2/18 275 [1] 2/18 291-3150 [1] 2/19 294-4080 [1] 2/13</p>	<p>E e-mail [1] 9/20 EF006036 [1] 1/7 EF006036-2018 [1] 1/7 elder [1] 4/9 explore [1] 14/20</p>	<p>O officer [1] 3/15 ORANGE [6] otherwise [1] 7/6</p>
<p>3 3150 [1] 2/19</p>	<p>F factual [1] 4/12 FIERRO [1] 2/6</p>	<p>P PLLC [2] 1/16 2/3 PLS [1] 8/2 plural [1] 6/9 PO [2] 1/23 2/4 preparation [2] 6/6 8/17 privilege [5] privileged [5] PROFESSIONAL [1] 1/23 protected [1] 14/19 public [5]</p>
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<p>5 565-1100 [1] 2/5</p>	<p>H Hunter [6]</p>	<p>R relate [1] 4/14 relative [1] 13/3 represented [4] 5/1 11/5 12/12 12/18 responsiveness [1] 3/11 review [3] 5/24 9/17 11/13 reviewed [1] 5/19 RICHARD [6] Rick [1] 15/19 Rider [2] 1/16 2/3 routinely [1] 9/21 rule [1] 13/13 RULINGS [1] 17/18</p>
<p>6 600 [1] 1/23</p>	<p>I II [1] 2/6 inception [1] 10/22 incorporation [2] 5/14 10/18 individually [1] 4/23 INFORMATION [1] 17/13 inquires [1] 13/17 instance [2] 14/11 14/11</p>	<p>S satisfied [1] 14/21 sends [1] 9/21 spoken [2] 6/22 7/6 standpoint [1] 11/13 statesmen [1] 4/9 Steven [2] 8/2 8/4 subdivision [1] 13/3 Supervisor [1] 10/2 SUPPLIED [1] 17/13 SUPPLIED/FILLED [1] 17/13 Sutz [6] swap [8]</p>
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<p>A a. [1] 1/15 a. m [1] 1/15 acknowledge [1] 16/8 allegations [1] 6/24 application [1] 13/9 argument [1] 14/15 arose [1] 9/16 attend [1] 9/10 attendance [1] 9/6 ATTORNEY'S [1] 2/16 attorney-client [2] 4/14 12/20 avoid [1] 4/13</p>	<p>L land [8] larger [2] 7/19 7/21 legal [4] 11/13 11/22 13/17 13/20 LIA [1] 2/6 limited [1] 15/2 LLP [1] 2/9</p>	<p>B Bar [1] 4/10 began [1] 10/15 board [24] BOX [3] 1/23 2/4 2/12 BURKE [1] 2/9</p>

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