

In The
Appellate Court of Illinois
Second District

CRYSTAL LAKE PARK DISTRICT, an)	
Illinois municipal corporation,)	
)	No. 95 CH 22
Plaintiff/Appellee,)	
)	Appeal from McHenry County
vs.)	
)	Trial Judge: Emilio Santi
ANTHONY C. BUONAURO, et al.,)	
)	
Defendants/Appellants.)	

SUPPLEMENTAL
APPENDIX

Joseph T. Morrison
Margaret Morrison Borcia
Attorneys for Plaintiff/Appellee
MORRISON & MORRISON, P.C.
32 N. West St.
Waukegan, IL 60085
847-244-2660

William M. Franz
Sandra Kerrick
Attorneys for Plaintiff/Appellee
FRANZ & KERRICK
453 Coventry Green
Crystal Lake, IL 60014
815-459-8100

SUPPLEMENTAL
APPENDIX

APPENDIX

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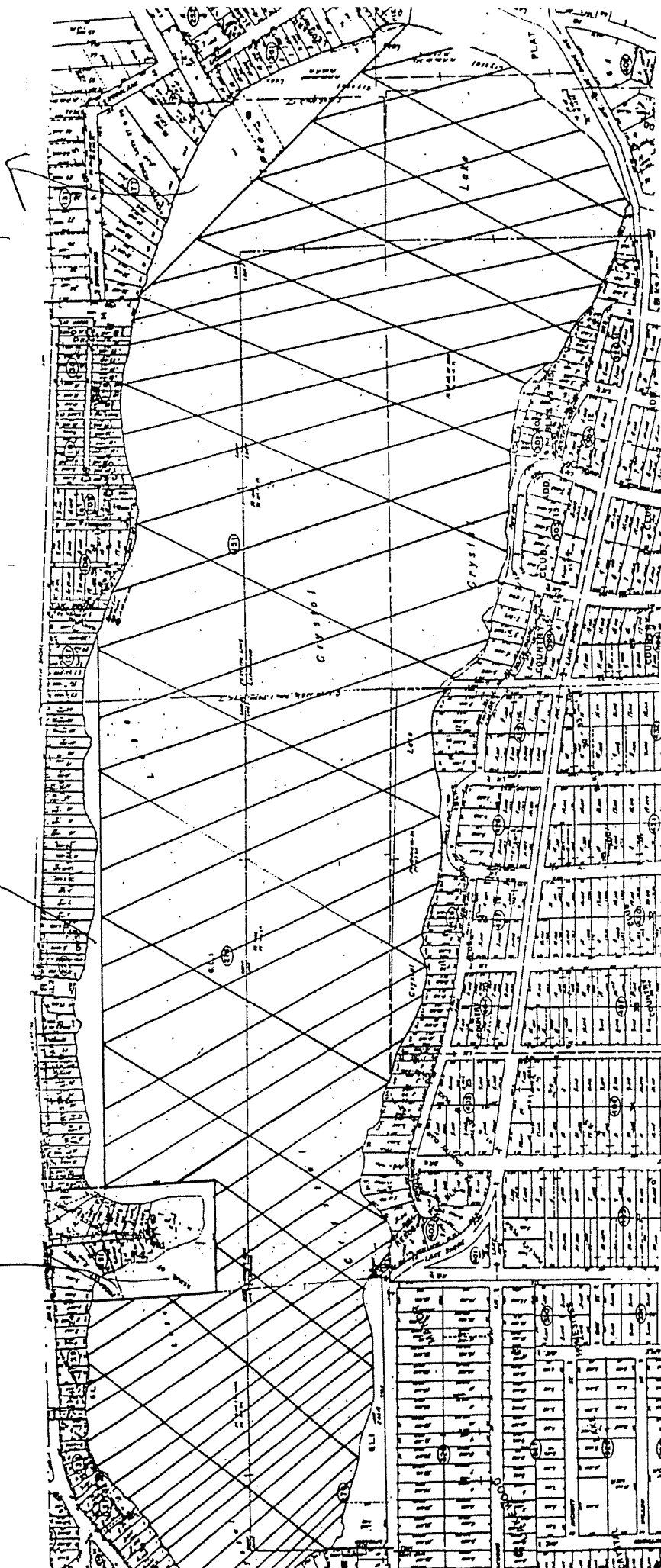
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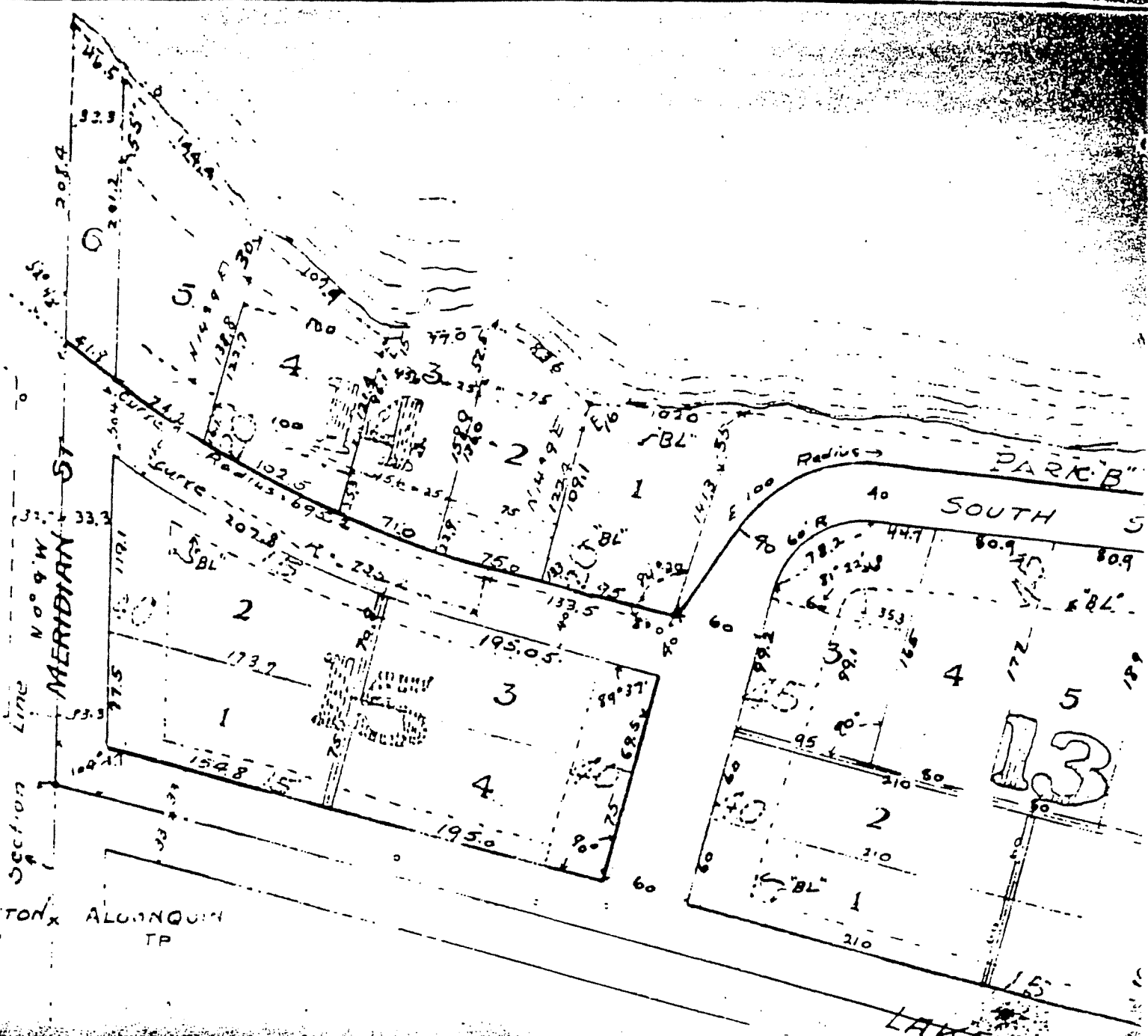
NOT
INCLUDED
(Lake Mayos
Area)

Clow's
Subdivision
Area

Prospect
Mint
Area



EXHIB



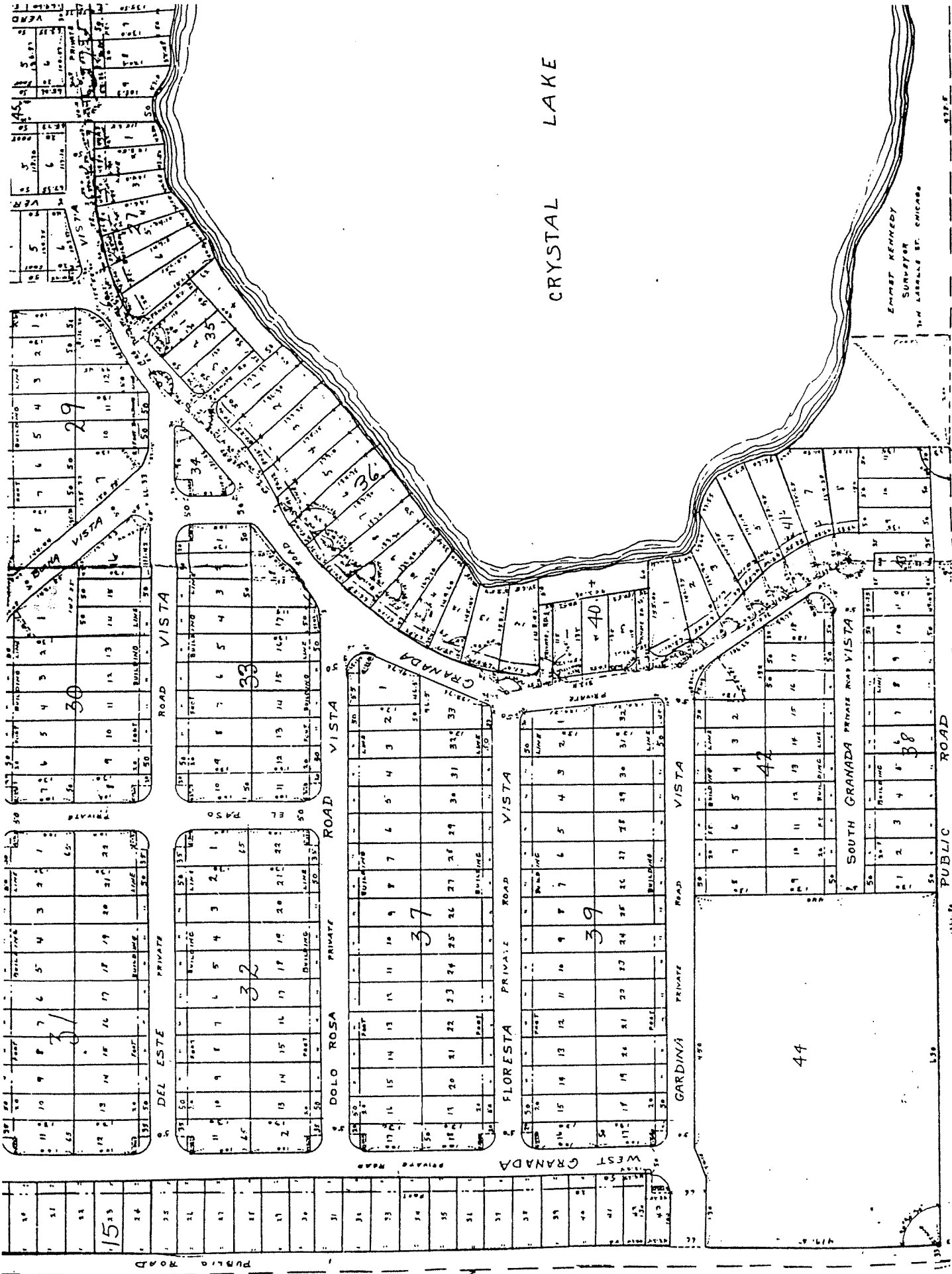
NOTE BUILDING LINES ARE INDICATED BY
 DOTTED LINES MARKED "BL"
 "R" INDICATES RADIUS OF CURVED ROAD LINES.
 MEASUREMENTS ALONG LAKE SHORE ARE TO LOCATE
 IRON PINS OR STAKES SET ON LOT LINES AND
 LOT LINES EXTEND TO WATER LINE IN DIRECT LINES
 IRON PINS SET AT ALL LOT CORNERS
 TRIPLE RULED LINES INDICATE 6 FOOT EASEMENT FOR SEWERS E

State of Illinois, ss No. 64128
 County of McHenry
 Filed for Record

A-2

1908.6

Section Line No 9 W
 MERIDIAN ST
 ALDORQUIN TP



CRYSTAL LAKE

EMMET KENNEDY
SURVEYOR
114 LEXINGTON ST. CHICAGO

15

31

32

33

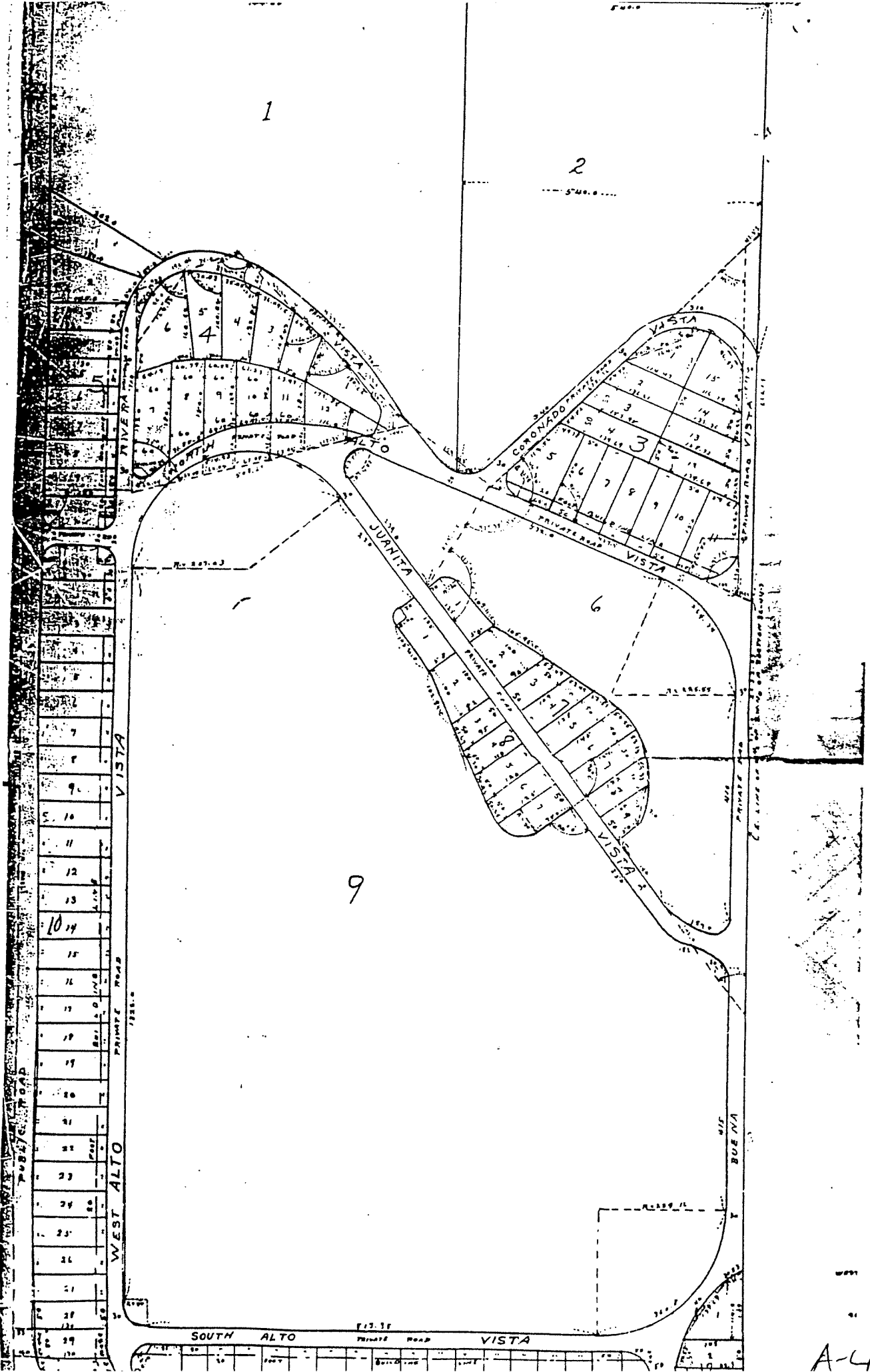
37

39

40

42

44



1

2

9

10

SOUTH ALTO PRIVATE ROAD VISTA

A-4

FILED

McHENRY COUNTY, ILLINOIS

MAY 7 - 1976

COPY *Margaret O'Neil*

STATE OF ILLINOIS)
) SS
COUNTY OF McHENRY)

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT COURT
McHENRY COUNTY, ILLINOIS

RODERICK VELDE and DIANE VELDE,)
his wife, et. al.,)
) Plaintiffs,) No. 74-1461
))
vs.))
))
THE CRYSTAL LAKE PARK DISTRICT,)
) Defendant.)

S T I P U L A T I O N

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled cause, by their respective attorneys, that:

1. Consumers Company was cutting and harvesting ice on Crystal Lake through 1932.
2. Within ten (10) days from the entry of the order, Plaintiffs shall submit certified copies of documents to the Court to be admitted into evidence as to their title.
3. Within ten (10) days from the entry of the order, Defendant shall submit certified copies of deeds and plats and a surveyor's report from J. M. Hank & Associates to the Court to be admitted into evidence as to their title.
4. Defendant shall also furnish to the Court an aerial map of Crystal Lake and the surrounding subdivisions to be used as the Court pleases and with leave given the Defendant to withdraw the map at the close of the case.
5. Plaintiffs will provide copies of their documents of title to Defendant within fifteen days from the entry of the order.
6. Defendant has submitted copies of its documents of title to the Plaintiffs.
7. Plaintiffs will have twenty (20) days from entry of the Order to submit a brief to Judge Gleason on the title and the applicable law as it relates to the title question and any objections to the Defendant's documents of title.

A-5

PLAINTIFF'S EXHIBIT 42

8. Plaintiffs will provide Defendant with a copy of their brief.

9. Defendant will then have twenty (20) days to submit a brief to Judge Gleason on the title and the applicable law as it relates to the title question and any objections to the Plaintiff's documents of title.

10. Plaintiffs will then have ten (10) days to reply to the Defendant's brief.

11. The matter will be set for oral argument as soon as practicable after the briefs are completed.

12. The Court will reserve a hearing on the Crystal Lake Park District Ordinance subsequent to the decision on the title.

13. It is further Stipulated that Knickerbocker - Consumers - Vulcan never had title to the bed and waters of Crystal Lake in the following areas:

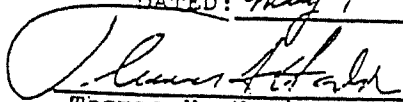
a. The area forming a five hundred (500) foot square surrounding Prospect Point which was part of a conveyance from Albert Stowell to Freemont Hoy as shown on the plat of Subdivision of Prospect Point.


b. The area contiguous to Clow's Crystal Lake Park from the shore to Government Lot 1, as shown on the Plat of Subdivision of Clow's Crystal Lake Park

c. The area contiguous to Leonard ^{MANOR} ~~Manner~~ and Lakeacres Subdivisions as shown on the Plats of Subdivision.

14. It is further Stipulated that taxes on Crystal Lake were assessed to Knickerbocker - Consumers - Vulcan from about 1901 to 1970 and that they paid taxes on Crystal Lake in some years.

DATED: May 9, 1976


Thomas H. Hanlon
Attorney for Plaintiffs


John L. Cowlin
Attorney for Defendant

COWLIN, COWLIN & UNGVARSKY
Attorneys for Defendant
20 Grant Street
Crystal Lake, Illinois 60014
Telephone: (815) 459-5300

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT, an)
Illinois municipal corporation,)

Plaintiff,)

vs.)

GEN. NO. 95 CH 22

ANTHONY C. BUONAURO, et al.,)

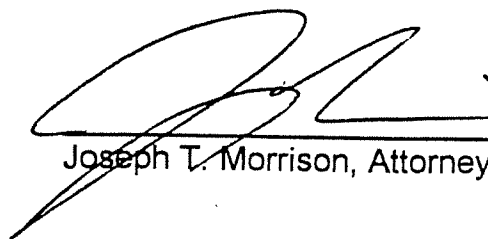
Defendants.)

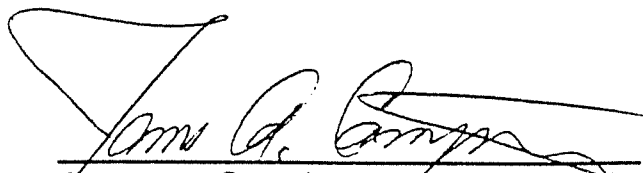
STIPULATION

NOW COMES the Plaintiff, CRYSTAL LAKE PARK DISTRICT, and the BUONAURO Defendants, and hereby stipulate and agree as to the following facts:

1. Consumers Company acquired the Knickerbocker Ice Company.
2. Vulcan Materials Company is the successor to Consumers Company.
3. The Knickerbocker Ice Company would cut ice from Crystal Lake during the winter and transport that ice to Chicago via rail cars. The Consumers Company marketed ice and coal, among other things, in Chicago in the early part of this century, so Consumers Company acquired Knickerbocker Ice Company in 1913.
4. The sale of "natural ice" harvested from Crystal Lake ended in 1932.

STIPULATED TO:


Joseph T. Morrison, Attorney for Plaintiff


James A. Campion, Attorney for
BUONAURO Defendants





FILED

RODERICK VELDE and DIANE
VELDE, his wife, et al.,
Plaintiffs-Appellants and
Cross-Appellees, vs.
CRYSTAL LAKE PARK DISTRICT,
Defendant-Appellee and
Cross-Appellant.

MAR 2 1983

LOREN J. STROTZ, Clerk
Appellate Court, 2nd District

No. 82-286

ORDER DISPOSING OF APPEAL
UNDER SUPREME COURT RULE 23

Plaintiffs constitute some, but not all, of the individual shoreline property owners on Crystal Lake who appeal from an order of the circuit court of McHenry County finding that defendant, Crystal Lake Park District (Park District), has the legal authority to issue rules and regulations regarding recreational uses of Crystal Lake, and that the rules and regulations adopted on April 13, 1972, are reasonable. The Park District cross-appeals a prior order of the court finding that plaintiffs' bill to quiet title to certain of the lake bed and waters was proper as against the Park District's interest and rights acquired by quit claim deed in 1970.

A brief history of the case is necessary to understand the context in which we must review the issues presented. On April 26, 1974, two of the present plaintiffs filed a one-count complaint against the Park District seeking injunctive relief against the Park District's enforcement of ordinances requiring the registration or licensing of any boat in order to use it on Crystal Lake if the boat owner was a shoreline property owner. The complaint also sought judgment establishing the rights of plaintiffs as riparian owners in and to the waters of and the bottom of Crystal Lake as such rights pertain to the Park District or other riparian owners. Subsequent amended complaints added additional, but not all, of the shoreline owners as plaintiffs. On March 2, 1976, plaintiffs filed their fifth amended complaint which sought relief against the Park District based upon a count to quiet title, a count in trespass, a count for injunctive relief against enforcement of the Park District's registration or licensing ordinance relative to boats on Crystal Lake, a count in ejectment, and a count for declaratory judgment. The last count was stricken by the trial court. The basic allegations common to all counts were that: plaintiffs owned property adjacent to and abutting Crystal Lake; the Park District also owned property adjacent to and abutting Crystal Lake; the Park District claimed rights to the bottom of Crystal Lake through a quit claim deed dated June 26, 1970, from Vulcan Materials Company, successor to Consumers Company and Knickerbocker Ice Company; title to Crystal Lake originated under United States patents and in

1902 Knickerbocker Ice Company was conveyed "'the greater part of the bed' of Crystal Lake and its surrounding shoreline" excepting the area known as Clow's Subdivision, Prospect Point, Clow's First Addition to Clow's Addition and Leonard Manor Subdivision, all on the North Shore of Crystal Lake; and Vulcan Materials Company or its predecessor conveyed out all of its right, title and interest in the shoreline and lake bottom prior to the quit claim deed in 1970 to the Park District.

On May 7, 1976, a stipulation by the parties was filed which stated, inter alia, that Consumers Company was cutting and harvesting ice on Crystal Lake through 1932; that Vulcan Materials Company and its predecessor companies were assessed taxes on Crystal Lake from about 1901 to 1970 and they paid taxes on Crystal Lake "in some years"; that Vulcan Materials Company and its predecessor companies never had title to the bed of waters of Crystal Lake in certain areas; that the parties would submit copies of documents as evidence of their title to be admitted into evidence; and that the parties would submit briefs to the court and thereafter orally argue the case before the court.

Prior to the time of oral argument, the Park District filed a written motion for a directed finding and entry of judgment setting forth, inter alia, that plaintiffs failed to join necessary party plaintiffs and plaintiffs failed to submit sufficient evidence connecting the present grantees' alleged titles to their predecessors. On March 25, 1977, the trial court heard arguments on the motion for a directed finding and entry of judgment for the Park District. The court reserved a ruling, and then heard arguments on the merits of the case. No evidence other than the exhibits generally referred to in the stipulation and the stipulation itself were offered. These exhibits, 88 plaintiffs' exhibits and 107 Park District exhibits, were apparently submitted to the court before the date of oral argument. On August 10, 1977, the trial court filed a memorandum opinion finding that plaintiffs' bill to quiet title was proper based upon the fact that Vulcan Materials Company or its predecessor companies had deeded away all of the property and rights to Crystal Lake prior to the 1970 quit claim deed to the Park District. No ruling was made in the ejectment and trespass counts. The parties had agreed that the issue of the Park District's ordinances regulating use of the Lake would be determined later. Remarkably, an order was not entered until April 20, 1979, after the Park District filed objections to a proposed order and a motion to reconsider. The issue of the Park District's legal authority to issue rules and regulations regarding the recreational use of Crystal Lake was resolved against plaintiffs in an order entered March 18, 1982. No transcript was provided with this record for any hearing which may have been held on this last order, nor is there a transcript for any hearing other than that of the oral arguments on March 25, 1977.

The issue which we address first is whether the Park District acquired title to the greater part of the bed and waters of Crystal Lake by a quit claim deed dated June 26, 1970, from Vulcan Materials Company. Initially, we must take up the Park District's argument that the trial court should have granted its motion for a directed finding. The Park District makes two arguments on appeal in this regard. It contends that the plaintiffs failed to join other property owners along Crystal Lake as parties, and that the plaintiffs did not offer evidence to establish a chain of title to Crystal Lake through their predecessors superior to that of the Park District. In a case tried without a jury, the statute only provides for a defendant's motion for a directed finding or judgment in its favor at the close of the plaintiff's case. (Ill. Rev. Stat. 1981, ch. 110, par. 64(3).) From the record it would appear that both parties here submitted their proofs and the motion was filed thereafter. Moreover, assuming the motion was after the plaintiffs' evidence, the trial court improperly reserved its ruling thereon without objection by the Park District. (See Smith v. McNeil Corp. (1979), 74 Ill. App. 3d 356, 359-60.) Had the legislative intent been to allow reservation of such a ruling, the legislation could easily have so provided. (See Goldberg v. Capitol Freight Lines, Ltd. (1943), 382 Ill. 283, 295.) Thus, there is a waiver of this issue by the Park District's failure to request an immediate ruling. (C.f. Ill. Rev. Stat. 1979, ch. 110, par. 64(3); McBride v. Commercial Bank of Champaign (1981), 101 Ill. App. 3d 760.) Nevertheless, we find no merit to either contention. The plaintiffs' deeds showing title in them to lots abutting on Crystal Lake under the circumstances here is sufficient to make out a prima facie case (see Kokinis v. Kotrich (1980), 81 Ill. 2d 151, 154-55), and it was unnecessary under the facts present and the pleadings to establish a chain of title from their predecessors. (See Hooper v. Traver (1927), 326 Ill. 596, 600-01.) The Park District's untimely motion alleging the failure to join necessary parties plaintiff does not show that other parties are necessary or indispensable to protect an interest which the absentee has in the subject matter of the controversy which would be materially affected by a judgment entered in his absence on plaintiffs' claim, or to reach a decision which will protect the interests of those who are before the court, or to enable the court to make a complete determination of the controversy. (See Lain v. John Hancock Mutual Life Insurance Co. (1979), 79 Ill. App. 3d 264, 268.) Joinder was not required.

In their pleadings, both parties agree that Crystal Lake is not a meandered lake. A nonmeandered lake is presumed to be not navigable (Leonard v. Pearce (1932), 348 Ill. 518, 522), and the parties also do not dispute that Crystal Lake is not navigable. In Illinois, where a lake or pond is not navigable and has never been meandered by the Federal Government, the purchasers from the government, and their grantees, own the bed of the lake or pond and are entitled to the exclusive possession of the portions owned by them, respectively. (Wilton v.

VanHossen (1911), 249 Ill. 182, 189-91.) Where small lakes are not meandered, and are included within the corners of a survey, then the riparian proprietor takes its bed. (See Fuller v. Shedd (1896), 161 Ill. 462, 489.) In the case of a natural lake or bed of water meandered by the government, the grant extends only to the water's edge, while ownership of the bed of the lake is in the State in trust for all the people. (Schulte v. Warren (1905), 218 Ill. 108, 117.) Plaintiffs do not claim that the descriptions in their deeds expressly include the bed of Crystal Lake in their lots. Rather, they claim their rights to the bed and waters as riparian owners.

Plaintiffs admit in their pleadings that in 1902 Knickerbocker Ice Company was conveyed "the greater part of the bed" of "Crystal Lake" "and its surrounding shoreline." Plaintiffs' only evidence that Knickerbocker and its successor companies subsequently conveyed away its rights in Crystal Lake is purportedly shown by plaintiffs' exhibits Nos. 1, 2, and 5. Plaintiffs' exhibit No. 1 is a transcript of a record and plat of a road in Grafton Township filed in the McHenry County Recorder of Deeds office by which Consumers Company conveyed to the town of Grafton in 1921 certain land on the shoreline of Crystal Lake for a new road and in connection therewith it conveyed "unto all persons using said premises * * * the right and privilege, insofar as said Consumers Company can grant such right and privilege, to use the waters of said Crystal Lake for bathing, boating, and fishing purposes, it being understood that by this provision all persons lawfully using said premises * * * shall have and enjoy the same rights and privileges on and in the waters of said Crystal Lake, as is, or hereafter be enjoyed by any owner or possessor of any portion of the shore of said Crystal Lake, insofar as the said Consumers Company * * * is concerned." Plaintiffs argue that this language clearly sets forth the lack of intent to reserve any water rights and is a conveyance of such water rights.

Where an instrument "merely confers a privilege to do an act * * * under the owner * * * it is a license, but if it grants exclusive possession of premises against the world, including the owner, it is not a license but creates an estate or interest in the land." (City of Berwyn v. Berglund (1912), 255 Ill. 498, 500-01.) Whether an instrument creates a license or grants an estate or interest in the land is a question of law. (255 Ill. 498, 500.) The intention of the parties is the key to construing the language of the deed and is ascertained by reading the deed as a whole. (Miller v. Ridgley (1954), 2 Ill. 2d 223, 226; Loque v. Marsh (1977), 50 Ill. App. 3d 493, 496.) Reading this deed as a whole it is apparent that only a privilege to use the waters of Crystal Lake for bathing, boating, and fishing was intended. This language does not clearly show a grant of an easement or any other estate or interest in the lake or lake bed. (See Chicago Title & Trust Co. v. Wabash-Randolph Corp. (1943), 384 Ill. 78, 85-86; Coomer v. Chicago and North Western

the privilege to use the lake was in common with all other owners of shoreline property. Thus, this exhibit is not evidence which indicates an intention to convey away the waters and bed of Crystal Lake.

Plaintiffs' exhibit No. 2 is a warranty deed from Consumers Company to Rudolph A. Cepak in 1926 wherein certain described property was conveyed and described in metes and bounds. The conveyance specified the shoreline as a boundary and made no mention of the bed or waters of Crystal Lake. It should be noted that this conveyance is apparently only a part of the shoreline property of Consumers Company. Any other conveyances of Consumers Company's shoreline property, except plaintiffs' exhibit No. 5, were not submitted into evidence in the trial below. It is plaintiffs' contention that the conveyance in plaintiffs' exhibit No. 2, even though specifically describing the shoreline as a boundary conveyed water and bed rights since these rights were not specifically reserved in the deed of conveyance. Both parties cite the applicable rule in this respect as being controlled by Heckman v. Kratzer (1976), 43 Ill. App. 3d 844. In Heckman, we stated the generally accepted rule in Illinois and elsewhere to be that unless an intention to the contrary is manifest, a grant of land bounded on a stream will convey the land under the water to the middle thread of the stream if the grantor's title extends so far. (43 Ill. App. 3d 844, 848.) This rule is only a presumption, and will not be enforced when the terms of the grant and all attendant circumstances show the intent was to confine the grant to the bank of the river. 43 Ill. App. 3d 844, 848.

The rule as to inland lakes and natural ponds is similar. The bed of a nonnavigable lake or natural pond is generally deemed to be the property of the adjoining landowners, and whether title to any part passes by a conveyance of lands bordering upon water depends upon the intentions of the parties as manifested in the words of the conveyance. (12 Am. Jur. 2d Boundaries §15 (1964).) There is a presumption that the grantor intends to convey all land he owns under the water, but the presumption may be rebutted by express words or words of description. (12 Am. Jur. 2d Boundaries §15 (1964).) Considering the express words of conveyance in plaintiffs' exhibit No. 2 and the stipulation entered into by the parties, any presumption is rebutted. Here the description of property conveyed in plaintiffs' exhibit No. 2 is described as bounded by the shoreline of Crystal Lake. If the description of land conveyed runs the boundary along dry land, such as the shore of a pond or lake, land under water is excluded from the conveyance. (12 Am. Jur. 2d Boundaries §15 (1964).) Moreover, the presumption is based on the theory that the grantor will not be presumed to have reserved a strip of land covered with water which will be of no practical value to him. (Heckman v. Kratzer (1976), 43 Ill. App. 3d 844, 849.) Here, it was stipulated that Consumers Company was cutting and harvesting ice from Crystal Lake through 1932, was assessed taxes until 1970, and paid taxes in some of those years. Therefore, the waters

did have an essential value to Consumers Company and this circumstance also negates an intention to convey away its ownership of the greater part of Crystal Lake at least before 1932. While plaintiffs state in their brief that Knickerbocker Ice Company's name change to Consumers Company indicates a change in the importance of the ice cutting operation of the Company, no evidence was introduced at trial to support this argument. Moreover, we decline to take judicial notice of the technical progress in the area of refrigeration during the period of 1903 through 1925, as requested by plaintiffs, since there was no such request at the trial, (People ex rel. McCallister v. Keokuk and Hamilton Bridge Co. (1919), 287 Ill. 246, 250-51; People v. Varnado (1978), 66 Ill. App. 3d 413, 419), nor is this a matter of such common knowledge that judicial notice would be appropriate. Motion Picture Appeal Board of the City of Chicago v. S.K. Films (1978), 65 Ill. App. 3d 217, 226.

The only other evidence plaintiffs submitted of a conveyance by Consumers Company was plaintiffs' exhibit No. 5. However, this conveyance in 1923 from Consumers Company to Lake Development Company describing in metes and bounds the property conveyed has not been further discussed in plaintiffs' brief relative to any importance the words of description therein have to the boundaries of the property. In the absence of any argument by plaintiffs in their brief informing us what significance the description of the property in this conveyance has on the issue raised, we decline to speculate on its relevance.

The plaintiffs have failed to show by subsequent documents of conveyance that Knickerbocker Ice Company and its successors conveyed away the waters and bed of Crystal Lake which plaintiffs admit were acquired by Knickerbocker in 1902. No testimony was submitted by plaintiffs to indicate the extent of the ice cutting and harvesting on Crystal Lake to rebut the stipulation that Consumers Company continued such operation through 1932. We therefore reverse the decision of the trial court on this issue. While the Park District asks us to find that it has title to Crystal Lake and exclusive possession of the waters to which it has title, such relief was not sought by counter-claim below (see Bell v. Yale Development Co. (1981), 102 Ill. App. 3d 108, 112; see e.g. Town of Kaneville v. Meredith (1933), 351 Ill. 620), nor would this be appropriate without all necessary parties being joined in the suit. (Hobbs v. Pinnell (1959), 17 Ill. 2d 535, 536; Pliske v. Yuskis (1980), 83 Ill. App. 3d 89, 95, (while the other property owners were not necessary plaintiffs to the plaintiffs' quiet title action, they would be necessary defendants to the Park District's claim since the Park District claims title to the whole lake.)) Thus, we reverse the order entered April 20, 1979.

We next address plaintiffs' appeal of the trial court's order which found that the Park District has authority to issue rules and regulations regarding the recreational uses of Crystal Lake. A park district is a municipal corporation (Meehan v. Granite City Park District (1932), 347 Ill. 364, 368), and is created for the purpose of establishing, maintaining, and governing public parks for the recreation, health, and benefit of the general public. (LePitre v. Chicago Park District (1940), 374 Ill. 184, 186-87.) Section 8-1 of the Park District Code (Ill. Rev. Stat. 1981, ch. 105, par. 8-1) sets out the general corporate powers of park districts. Generally, a municipal corporation derives its existence and its authority from the legislature. (City of Rockford v. Hey (1937), 366 Ill. 526, 530.) In order to enact regulations concerning a particular subject matter, the municipality must be able to cite a statute which expressly gives the municipality authority to act in that area or be able to show that the power asserted is necessarily implied from or incident to an express grant of authority. (Father Basil's Lodge, Inc., v. City of Chicago (1946), 393 Ill. 246, 252.) Park districts, like other non-home-rule units of local government, can only exercise those powers expressly granted to them by statute or necessarily implied from such a grant. (Charlton v. Champaign Park District (1982), 110 Ill. App. 3d 554, 556.) Further, the legislative powers of municipal corporations are strictly construed and any rational doubt as to the existence of a power should be resolved against the corporation. City of Rockford v. Hey (1937), 366 Ill. 526, 531.

As discussed above, the Park District is one of many property owners abutting Crystal Lake, a nonnavigable, private lake. No statutory authority can be found which expressly gives a park district the authority to pass ordinances which regulate the use of a lake under the circumstances present in this case. However, it is the Park District's contention that "[t]he authority to issue rules and regulations regarding the recreational uses of Crystal Lake is necessarily incident to the powers expressly granted, and as such, is within the Crystal Lake Park District's grant of legislative power." The Park District maintains that the authority to regulate the lake is incident to its power to govern the property under its jurisdiction. See Ill. Rev. Stat. 1981, ch. 105, par. 8-1(d).

No evidence was introduced below to justify the necessity of the Park District's exercise of authority to regulate boats on the lake. No express statutory authority exists to enact such ordinances. The Park District cites no Illinois case which has held that a park district which owns land abutting on a private lake along with other abutting property owners possesses implied power to pass ordinances regulating the use of the lake. Statutory authority does exist for a park district abutting a navigable body of water "to take charge of, control and police such body of water and the land thereunder for a distance of three hundred feet along any park, boulevard or

pleasure drive constructed by it and bordering thereon." (Ill. Rev. Stat. 1981, ch. 105, par. 11-4.) A general rule of statutory construction provides that when the statutory language expressly mentions one thing it implies the exclusion of other similar things. (Nelson v. Union Wire Rope Corp. (1964), 31 Ill. 2d 69, 99; Panarese v. Hosty (1982), 104 Ill. App. 3d 627, 629.) Applying this rule, it may be presumed that the intent of this legislation was to grant the powers enumerated in the statute to park districts along navigable bodies of water while denying those powers to park districts located along nonnavigable bodies of water. Thus, a park district is not empowered by statute "to take charge of, control [or] police" an abutting nonnavigable body of water. We observe that under the limited facts presented we are not faced with a factual situation where a lake was entirely within property owned by a park district or a majority of the abutting property was owned by a park district. We note also that apparently other municipalities own property abutting on Crystal Lake although no present controversy exists among them over which municipality may regulate the use of the lake. No evidence was produced to indicate, for example, the number of persons using the lake, the danger, if any, to persons using the Park District's beaches from boats on the lake, or other evidence which might demonstrate the necessity of the Park District's regulating the lake as it affects the use of park district property. Thus, the Park District has failed to demonstrate that the power to regulate Crystal Lake under the facts here is necessarily implied from its express general grant of authority under section 8-1 or any other provision of the Park District Code. Accordingly, we hold the ordinance applicable here invalid, and the order of the trial court on this issue must be reversed. We, therefore, need not reach the issue whether the ordinance was a reasonable exercise of the Park District's authority.

The orders entered April 20, 1979, and March 18, 1982, are reversed.

REINHARD, UNVERZAGT, HOPF

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT FILED
McHENRY COUNTY, ILLINOIS

APR 03 1996

VERNON W. KAYS, JR.
McHENRY CTY. CIR. CLK.

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
)
Plaintiff,)
)
vs.) NO. 95 CH 22
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

MOTION TO CANCEL DEED

NOW COME the Certain Defendants, ANTHONY C. BUONAURO, et al., by their attorney, HAROLD C. McKENNEY, and move this Honorable Court to cancel and hold void a Quit Claim Deed dated June 26, 1970 and recorded in the Recorder's Office of McHenry County on July 6, 1970 in which VULCAN MATERIALS COMPANY was the apparent grantor and the CRYSTAL LAKE PARK DISTRICT, the alleged grantee, and as grounds for said Motion state as follows:

1. That on July 6, 1970 a Quit Claim Deed was recorded with the apparent grantor being the VULCAN MATERIALS COMPANY and the apparent grantee being the CRYSTAL LAKE PARK DISTRICT.

A-16

2. That said deed was procured by fraud in that the consideration for said deed was illegal and known to the parties procuring the drafting and recording of said deed to be illegal or, in the exercise of judgment as reasonable men, should have known to them to be illegal.

3. That the consideration for said deed was the abatement of certain real estate taxes due to the County of McHenry, State of Illinois, for the years 1968 and 1969 and previous years.

4. That during the years 1968 and 1969 and years prior thereto much of the land which was the subject matter of the deed in question herein was owned by a private enterprise, VULCAN MATERIALS COMPANY, grantor in the deed in question, and its predecessors.

5. That as of 1970, certain real estate taxes for the years 1897, 1911, 1912, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969 and 1970, a total of thirty-eight (38) years, had not been paid upon said property allegedly owned by CONSUMERS COMPANY and KNICKERBOCKER ICE COMPANY, predecessors of VULCAN MATERIALS COMPANY, which constituted a large segment of the property purportedly conveyed by said deed.

6. That said taxes were abated by the McHenry County Board of Review on the basis that the property in question was owned by a public entity, to-wit: the CRYSTAL LAKE PARK DISTRICT, when in fact at the time the taxes were incurred and were due and owing and prior to the purported transfer on June 26, 1970 to the CRYSTAL LAKE PARK DISTRICT, the lands were allegedly owned at all times by a private enterprise, VULCAN MATERIALS COMPANY, and its predecessors which were duty bound to pay said real estate taxes on said lands to the County of McHenry.

7. That said taxes were abated at the instance of the CRYSTAL LAKE PARK DISTRICT and its agents at the request of VULCAN MATERIALS COMPANY, as evidenced by Exhibits "1" and "2" to this Motion attached hereto and incorporated for all purposes as if recited verbatim herein.

8. That it was illegal, improper and fraudulent to abate said taxes in that said monies were owed to, and the property of the County of McHenry and its citizens and said monies therefore were used as the consideration for the granting of the deed from VULCAN MATERIALS COMPANY to the CRYSTAL LAKE PARK DISTRICT which meant that general real estate taxes owing to the entire County of McHenry were improperly used as the consideration for VULCAN MATERIAL COMPANY deeding its interest in the real estate involved herein solely to and for the benefit of the CRYSTAL LAKE PARK DISTRICT.

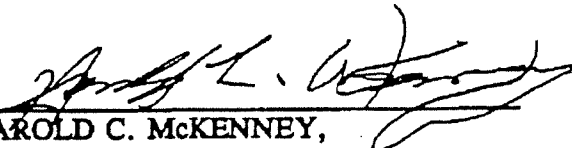
9. That the acts hereinbefore described in the premises constitute a fraud upon the citizens of McHenry County and the County of McHenry in that the citizens of the entire County, and the County were deprived of said tax monies and, therefore, paid the consideration for the transfer of land to and for the benefit of the CRYSTAL LAKE PARK DISTRICT, an improper, illegal and fraudulent act based upon misrepresentation to the McHenry County Board of Review.

10. That the Defendants herein this suit, as both taxpayers in McHenry County and integral victims of the fraud stated herein the premises, have standing to seek cancellation of the deed herein in question both as taxpayers and as persons who would be damaged in their property rights in the event said deed is not rescinded or cancelled.

WHEREFORE, your Certain Defendants pray that this Honorable Court conduct a hearing upon the merits of this Motion, and that upon said hearing, enter an Order vacating and voiding the deed recorded July 6, 1970 from the VULCAN MATERIALS COMPANY to the CRYSTAL LAKE PARK DISTRICT, and

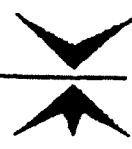
Tax costs of this matter unto the Plaintiff, and

For such other and further relief as this Court shall deem just and proper.


HAROLD C. McKENNEY,
ATTORNEY FOR CERTAIN
DEFENDANTS

HAROLD C. McKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832
spoe195ch22\ddv.mtn

Vulcan Materials Company



TO: Mr. J. O. Screven

FROM: Mr. C. C. Addams

DATE: May 15, 1970

SUBJECT: Agenda Item for Board of Directors Meeting

This Division requests approval of the Board of Directors to donate approximately 194 acres of Crystal Lake to the Crystal Lake Park District. This property is all in the lake itself, includes no shore line. Title is vested in Vulcan and the attachments provide further history and description.

The lake is presently used for boating and other aquatic activities by residents of the area and this use constitutes some substantial liability exposure for this Company. We have had an appraisal made and the amount indicated is \$194,240. The general implications of this transaction have been discussed with Mr. Van Pelt.

As indicated in the enclosure there is some delinquency of taxes. We will be ^{REQUIRED} ~~requested~~ to make the payment of \$1,349.33 which has previously been made by the Bathricks. ~~partly~~ We will endeavor to have the Park District seek abatement of the \$5,153.41 owing on the Grafton Township 70 acre parcel.

If you have any question, please call me.

CCA/mr

C. C. Addams

Encls.

cc: Mr. F. M. Wells
Mr. G. P. Bergeron

EXHIBIT "1"

A-21

Vulcan Materials Company 7-22-68

TO: Mr. W. J. Shaw
FROM: W. W. Tubbs and B. Wells
SUBJECT: Crystal Lake - Lake

*WTS advised c.c.n., Wellst adds
that VMC does not want to
involve present Crystal Lake property
in consideration with J. ...
DATE: April 10, 1968
Crystal Lake - Present operations -
O. Johnson and Dale of VMC Lake owners
will present in next development.*

Through title search and review of tax records of McHenry County, Illinois, it appears that Vulcan Materials Company owns 161.64 acres of the Crystal Lake - Lake which in total is approximately 181.64 acres. 91.64 acres of the total acreage is valued for tax purposes at \$900 total and the annual tax thereon is \$36; 70 acres in Grafton Township is valued at \$3,760 and the annual tax thereon is \$153. Taxes are delinquent for quite a number of years and at this writing we do not know the extent thereof. We are informed by the McHenry County Tax Assessor's Office that annually this lake area is placed for tax sale but to the point of this writing such lake area has not been purchased for delinquent taxes.

We are informed by the McHenry County Title Company that it has given title insurance for all the shoreline property and, therefore, it appears that Vulcan Materials Company owns in the lake area only.

We understand that extensive use is made by the property owners and by the general public in terms of swimming, boating, water skiing and other such water activities. We also understand that the lake is being polluted. There is only occasional policing of the lake by the State of Illinois. From these facts, it appears that Vulcan Materials Company's liability could be quite extensive.

As you know, the Crystal Lake Park District would like to have control of this lake in order that it might properly supervise the use of the lake. Also, as you know, Buddy Wells has been working with the Crystal Lake Park District in an effort to get Three Oaks Road at our Crystal Lake operation abandoned to provide additional mineral reserves available to Vulcan at the Crystal Lake operation in exchange for which Vulcan would donate its ownership in the lake to the Crystal Lake Park District. As we all know, this negotiation could span quite a period of time and some decision must be reached with respect to the lake to free Vulcan as much as possible from any liability with respect to the use of the lake. To this end, therefore, we recommend that immediately a lease agreement be entered into with the Crystal Lake Park District leasing Vulcan's interest in the lake to the Crystal Lake Park District at a rental rate equal to the annual taxes on the lake which approximate \$190 annually and as a condition to the lease we recommend that the Crystal Lake Park District be required to pay the back taxes or get such taxes waived by working with the McHenry County taxing authority. We also recommend, of course, that Crystal Lake Park District hold Vulcan harmless from liability and provide Vulcan with the necessary insurance certificates to indicate its financial ability to support a hold harmless agreement.

By copy of this letter to M. G. Jackson I am asking him to check to ascertain that we are covered for the risk involved in the facts herein outlined.

EXHIBIT "2"

A-22

Mr. Shaw

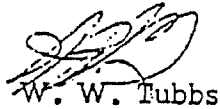
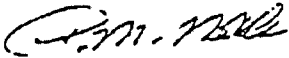
-2-

April 10, 1968

Vulcan has ownership in this lake by succession from Knickerbocker Ice Company which presently is shown as the record owner. The last title date shown of record is 1903, the date of purchase by Knickerbocker Ice Company.

Of course, the Crystal Lake Park District will readily recognize that it could buy the lake area by simply paying the delinquent taxes. In such event, Vulcan Materials Company would have a period of time within which to redeem such lake area if it chose to do so. Pending a decision on disposition of the Crystal Lake - Lake, we can instruct our tax lawyer, Mr. John Bolton, to trace the tax sales transactions in this area to determine whether or not the lake area is purchased for delinquent taxes in order that we may make the necessary judgment as to whether or not we should redeem. Assuming we are successful in getting the Crystal Lake Park District to have Three Oaks Road abandoned and, assuming for services rendered, we determine to donate to the Crystal Lake Park District our interest in the Crystal Lake - Lake, we recommend that we attempt to convey our interest in such lake by a quit claim deed which would absolve Vulcan from making any statement as to its exact ownership in the lake.

F. Wells



W. W. Tubbs

WWT/VMc

cc: Mr. M. G. Jackson
Mr. C. C. Addams
Mr. B. Jagen

P. S. We also recommend that the lease with the Crystal Lake Park District be on an annual basis and that a provision be put in the lease with the Park District to use its best efforts in getting Three Oaks Road abandoned in consideration for our donating our interest in the Crystal Lake - Lake.

A-23

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT,
an Illinois Municipal Corporation,
Plaintiff,
v.
ANTHONY C. BUONAURO, et al.,
Defendants.

No. 95 CH 22
FILED
McHenry County, Illinois
JUN - 4 1996
VERNON W. KAYS, JR.
Clerk of the Circuit Court

MOTION TO STRIKE
DEFENDANTS' "MOTION TO CANCEL DEED"

Now comes the Plaintiff, CRYSTAL LAKE PARK DISTRICT, by its attorneys, FRANZ & KERRICK, pursuant to 735 ILCS 5/2-615 and moves the court to strike the "Motion to Cancel Deed." In furtherance hereof, Plaintiff states the following:

1. No such motion as a "Motion to Cancel Deed" is recognized by the Code of Civil Procedure.
2. Further, the substance of the relief requested, "to cancel the deed", cannot be obtained by motion.
3. The "Motion to Cancel Deed" fails to affirmatively plead which section of the Code it is filed pursuant to, as required by Section 2-619.1.
4. The "Motion to Cancel Deed" is replete with unsupported allegations of "fact," stated as evidence, which are not of record; are not sworn to on personal knowledge of the defendants; are not affirmed by affidavits as required by Rule 191; are not in any proper way, admissible evidence presently pending before the court;

IMAGED

A-7.4

and are not admitted by Plaintiff. Further, motion practice only allows the submission of evidence by Rule 191 affidavits to support 2-1005 and 2-619 motions.

5. "The Motion to Cancel Deed" makes broad conclusory allegations of fraud and unspecified "misrepresentations." Illinois law is clear that the facts constituting each of the five elements of fraud must be pleaded with particularity. The elements have not been pleaded.

WHEREFORE, Plaintiff, CRYSTAL LAKE PARK DISTRICT, moves the court to strike the "Motion to Cancel Deed."

Respectfully Submitted,

FRANZ & KERRICK

BY:

William M. Franz

FRANZ & KERRICK
Attorneys for Plaintiff,
Crystal Lake Park District
453 Coventry Green
Crystal Lake, IL 60014
(815) 459-8100

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FILED

OCT 4 1996

VERNON W. BAYE, JR.
McHENRY CTY. CLK. CLK.

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

NO. 95 CH 22

MOTION FOR DECLARATORY JUDGMENT ORDER

NOW COME the Certain Defendants, ANTHONY C. BUONAURO, et al., by their attorney, HAROLD C. McKENNEY, and in lieu of the Certain Defendants' prior Motion to Cancel Deed, move this Honorable Court to enter a Declaratory Order herein this cause finding the Quit Claim Deed dated June 26, 1970 and recorded in the Recorder's Office of McHenry County, Illinois on July 6, 1970 in which VULCAN MATERIALS COMPANY sought to convey to the CRYSTAL LAKE PARK DISTRICT, Plaintiff herein, certain real estate located in McHenry County which is the subject matter of this litigation, to be null and void as having been procured by fraud on the part of the Plaintiff and its agents and to hold that said deed is a nullity and of no legal effect, and as grounds for said Motion state as follows:

A-26 /

1. That on July 6, 1970 a Quit Claim Deed dated June 26, 1970 was recorded in the Office of the Recorder of McHenry County, Illinois stating that the Grantor was the VULCAN MATERIALS COMPANY and the Grantee the CRYSTAL LAKE PARK DISTRICT.

2. That the legal description contained in said deed read as follows:

That part of the Northwest Quarter of Section 1, of the Northeast Quarter of Section 1, and of the Southeast Quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest Quarter of Section 6, of the Northwest Quarter of Section 6, of the Northeast Quarter of Section 6, and of the Southeast Quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal meridian, which is covered by the waters of said lake.

which said property constitutes part of the lakebed of Crystal Lake in McHenry County, Illinois.

3. That in 1969 and 1970 the CRYSTAL LAKE PARK DISTRICT through its agents represented to certain governmental tax agencies in the Township of Grafton in the County of McHenry, State of Illinois that taxes previously assessed and existing upon said property amounting to sums of thousands of dollars for many years prior to the year 1970, during which time the property was in fact owned by private entities, specifically, to-wit: VULCAN MATERIALS COMPANY and its predecessor corporations, should be abated as said

property was as of June 26, 1970 to become the property of the CRYSTAL LAKE PARK DISTRICT, a public entity exempt from taxation.

4. That there existed at that time and place in 1970 no legal or valid grounds for abatement of the tax specified in the next-preceding paragraph of this Motion.

5. That the consideration for said Quit Claim Deed was the abatement of certain real estate taxes due to the Township of Grafton, County of McHenry, State of Illinois, for the years of 1968 and 1969 and many previous years.

6. That based upon representations made to Stanley H. Cornue then Assessor for Grafton Township of McHenry County, Illinois, by the agents of the CRYSTAL LAKE PARK DISTRICT, in the years 1969 and 1970, said Stanley H. Cornue changed the assessments previously and legitimately made upon said land while in private ownership as hereinbefore described, to the figure of zero, a palpable falsehood and abated said taxes illegally, thus depriving the citizens of Grafton Township and the County of McHenry of their just tax monies.

7. That at the time of the representations made to Stanley H. Cornue, as stated above, the agents of the CRYSTAL LAKE PARK DISTRICT making said representations had to know them to be false in that there were no legal grounds to abate said taxes.

8. That during the years 1968 and 1969 and for many years prior thereto much of the land which was the subject matter of the deed in question herein was owned by a private enterprise, VULCAN MATERIALS COMPANY, Grantor in the deed in question, and its predecessors.

9. That as of 1970, certain real estate taxes for the years 1897, 1911, 1912, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969 and 1970, a total of thirty-eight (38) years, had not been paid upon said property allegedly owned by CONSUMERS COMPANY and KNICKERBOCKER ICE COMPANY, predecessors of VULCAN MATERIALS COMPANY, which constituted a large segment of the property purportedly conveyed by said deed.

10. That based upon the representations made by the agents of the CRYSTAL LAKE PARK DISTRICT to the Assessor of Grafton Township in the years 1969 and 1970, the past taxes upon said property were abated, and in consideration therefore VULCAN MATERIALS COMPANY, having been relieved of the burden of paying said taxes, delivered unto the CRYSTAL LAKE PARK DISTRICT its Quit Claim Deed to the property concerned herein the premises.

11. That the conveyance of said deed under the circumstances herein described in the premises acted to the detriment of all of the citizens of McHenry County including those

citizens who own land abutting upon Crystal Lake who constitute the Defendants or their predecessors in title to said lands abutting upon said Crystal Lake and that said citizens were deprived that the benefit of the tax monies legitimately due and owing from VULCAN MATERIALS COMPANY unto Grafton Township and the County of McHenry and all of its citizens therein contained and that, in effect, tax monies owing to the citizens of Grafton Township and McHenry County including the Defendants herein and their predecessors in title were fraudulently used to procure the deed in question herein allegedly and purportedly conveying said certain real property unto the CRYSTAL LAKE PARK DISTRICT by the aforestated actions of the CRYSTAL LAKE PARK DISTRICT and its agents, and the interests of said land owners abutting upon Crystal Lake and their claims of and rights in title to the fee and use of said lake placed in jeopardy by said aforestated acts and conduct on the part of the agents and representatives of the CRYSTAL LAKE PARK DISTRICT.

12. That said taxes were abated by the McHenry County Board of Review on the basis that the property in question was owned by a public entity, to-wit: the CRYSTAL LAKE PARK DISTRICT, when in fact at the time the taxes were incurred and were due and owing and prior to the purported transfer on June 26, 1970 to the CRYSTAL LAKE PARK DISTRICT, said lands were apparently owned at all times by a private enterprise, VULCAN MATERIALS COMPANY, and its predecessors which were duty bound to pay said real estate taxes on said lands to the Township of Grafton and the County of McHenry.

13. That said taxes were abated at the instance of the CRYSTAL LAKE PARK DISTRICT and its agents at the request of VULCAN MATERIALS COMPANY, as evidenced by Exhibits "1" and "2" to this Motion attached hereto and incorporated for all purposes as if recited verbatim herein.

14. That the VULCAN MATERIALS COMPANY, through its agents and representatives, discussed with the CRYSTAL LAKE PARK DISTRICT and its agents the securing of the abatement of property taxes legitimately due and owing to the taxpayers of McHenry County in return for giving a Quit Claim Deed to said real property which is the subject matter of this action, to the CRYSTAL LAKE PARK DISTRICT well knowing that the consideration for said deed would be abatement of certain legitimate tax monies owing to the citizens of Grafton Township and McHenry County and would be flowing from that source rather than from the CRYSTAL LAKE PARK DISTRICT which would be the sole beneficiary of said deed.

15. That it was illegal, improper and fraudulent to abate said taxes in that said monies were owed to, and the property of, the Township of Grafton and County of McHenry and its citizens and said monies therefore were used as the consideration for the granting of the aforestated deed from VULCAN MATERIALS COMPANY to the CRYSTAL LAKE PARK DISTRICT which meant that general real estate taxes owing to the Township of Grafton and County of McHenry were improperly used as the consideration for VULCAN MATERIAL

COMPANY deeding its interest in the real estate involved herein solely to and for the benefit of the CRYSTAL LAKE PARK DISTRICT.

16. That the acts hereinbefore described in the premises constitute a fraud upon the citizens of the Township of Grafton and the County of McHenry in that the citizens of said Township and County were deprived of said tax monies and, therefore, paid the consideration for the transfer of land to and for the benefit of the CRYSTAL LAKE PARK DISTRICT, an improper, illegal and fraudulent act based upon misrepresentation as to amount of said taxes to the McHenry County Board of Review.

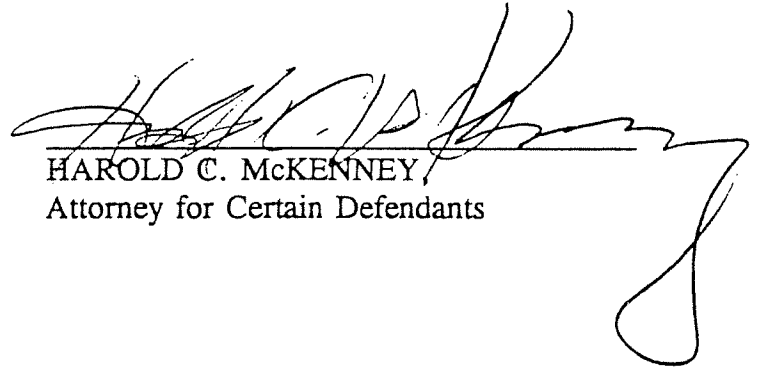
17. That the Defendants herein this suit, as both taxpayers in Grafton Township and McHenry County and integral victims of the fraud stated herein the premises, have standing to seek cancellation as a declaration of invalidity of the deed herein in question both as taxpayers and as persons who would be damaged in their property rights in the event said deed is not rescinded, cancelled and/or declared void and a nullity.

WHEREFORE, your Certain Defendants pray that this Honorable Court conduct a hearing upon the merits of this Motion for Declaratory Order, and that upon said hearing, enter an Order finding and declaring that the deed herein of June 26, 1970 was fraudulently procured and constitutes a fraud upon the Certain Defendants, ANTHONY C. BUONAURO, et al., herein and all other citizens of McHenry County, and ordering the rescision and cancellation of said deed, and

A-32

Tax costs of this matter unto the Plaintiff, and

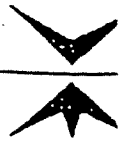
For such other and further relief as this Court shall deem just and proper.



HAROLD C. McKENNEY
Attorney for Certain Defendants

HAROLD C. McKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832
spoa\95ch22\decjord.mtn

Vulcan Materials Company



TO: Mr. J. O. Screven

FROM: Mr. C. C. Addams

DATE: May 15, 1970

SUBJECT: Agenda Item for Board of Directors Meeting

This Division requests approval of the Board of Directors to donate approximately 194 acres of Crystal Lake to the Crystal Lake Park District. This property is all in the lake itself, includes no shore line. Title is vested in Vulcan and the attachments provide further history and description.

The lake is presently used for boating and other aquatic activities by residents of the area and this use constitutes some substantial liability exposure for this Company. We have had an appraisal made and the amount indicated is \$194,240. The general implications of this transaction have been discussed with Mr. Van Pelt.

As indicated in the enclosure there is some delinquency of taxes. We will be ^{REQUIRED} requested to make the payment of \$1,349.33 which has previously been made by the Bathricks. ~~partly~~ We will endeavor to have the Park District seek abatement of the \$5,153.41 owing on the Grafton Township 70 acre parcel.

If you have any question, please call me.

CCA/mr

C. C. Addams

Encls.

cc: Mr. F. M. Wells
Mr. G. P. Bergeron

EXHIBIT "1"

A-34

TO: Mr. W. J. Shaw
FROM: W. W. Tubbs and B. Wells
SUBJECT: Crystal Lake - Lake

*WJS advised CCM, Wellst adds
that VMC does not want to
involve present Crystal Lake property
in consideration with 3
Crystal Lake - Present agreement -
@ Brandon road @ Lake if VMC takes ownership
of present road @ Brandon*

DATE: April 10, 1968

Through title search and review of tax records of McHenry County, Illinois, it appears that Vulcan Materials Company owns 161.64 acres of the Crystal Lake - Lake which in total is approximately 181.64 acres. 91.64 acres of the total acreage is valued for tax purposes at \$900 total and the annual tax thereon is \$36; 70 acres in Grafton Township is valued at \$3,760 and the annual tax thereon is \$153. Taxes are delinquent for quite a number of years and at this writing we do not know the extent thereof. We are informed by the McHenry County Tax Assessor's Office that annually this lake area is placed for tax sale but to the point of this writing such lake area has not been purchased for delinquent taxes.

We are informed by the McHenry County Title Company that it has given title insurance for all the shoreline property and, therefore, it appears that Vulcan Materials Company owns in the lake area only.

We understand that extensive use is made by the property owners and by the general public in terms of swimming, boating, water skiing and other such water activities. We also understand that the lake is being polluted. There is only occasional policing of the lake by the State of Illinois. From these facts, it appears that Vulcan Materials Company's liability could be quite extensive.

As you know, the Crystal Lake Park District would like to have control of this lake in order that it might properly supervise the use of the lake. Also, as you know, Buddy Wells has been working with the Crystal Lake Park District in an effort to get Three Oaks Road at our Crystal Lake operation abandoned to provide additional mineral reserves available to Vulcan at the Crystal Lake operation in exchange for which Vulcan would donate its ownership in the lake to the Crystal Lake Park District. As we all know, this negotiation could span quite a period of time and some decision must be reached with respect to the lake to free Vulcan as much as possible from any liability with respect to the use of the lake. To this end, therefore, we recommend that immediately a lease agreement be entered into with the Crystal Lake Park District leasing Vulcan's interest in the lake to the Crystal Lake Park District at a rental rate equal to the annual taxes on the lake which approximate \$190 annually and as a condition to the lease we recommend that the Crystal Lake Park District be required to pay the back taxes or get such taxes waived by working with the McHenry County taxing authority. We also recommend, of course, that Crystal Lake Park District hold Vulcan harmless from liability and provide Vulcan with the necessary insurance certificates to indicate its financial ability to support a hold harmless agreement.

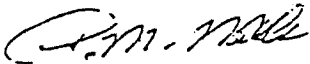
By copy of this letter to M. G. Jackson I am asking him to check to ascertain that we are covered for the risk involved in the facts herein outlined.

April 10, 1968

Vulcan has ownership in this lake by succession from Knickerbocker Ice Company which presently is shown as the record owner. The last title date shown of record is 1903, the date of purchase by Knickerbocker Ice Company.

Of course, the Crystal Lake Park District will readily recognize that it could buy the lake area by simply paying the delinquent taxes. In such event, Vulcan Materials Company would have a period of time within which to redeem such lake area if it chose to do so. Pending a decision on disposition of the Crystal Lake - Lake, we can instruct our tax lawyer, Mr. John Bolton, to trace the tax sales transactions in this area to determine whether or not the lake area is purchased for delinquent taxes in order that we may make the necessary judgment as to whether or not we should redeem. Assuming we are successful in getting the Crystal Lake Park District to have Three Oaks Road abandoned and, assuming for services rendered, we determine to donate to the Crystal Lake Park District our interest in the Crystal Lake - Lake, we recommend that we attempt to convey our interest in such lake by a quit claim deed which would absolve Vulcan from making any statement as to its exact ownership in the lake.

F. Wells


W. W. Tubbs

WWT/VMc

cc: Mr. M. G. Jackson
Mr. C. C. Addams
Mr. B. Jagen

P. S. We also recommend that the lease with the Crystal Lake Park District be on an annual basis and that a provision be put in the lease with the Park District to use its best efforts in getting Three Oaks Road abandoned in consideration for our donating our interest in the Crystal Lake - Lake.

A-36

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS

FILED

OCT 21 1996

Shirley L. Coffey
CIRCUIT CLERK

CRYSTAL LAKE PARK DISTRICT,)
an Illinois Municipal Corporation,)
Plaintiff,)
v.)
ANTHONY C. BUONAURO, et al.,)
Defendants.)

No. 95 CH 22

PLAINTIFF'S MOTION TO STRIKE AND/OR DISMISS
BUONAURO'S "MOTION FOR DECLARATORY JUDGMENT ORDER"

Now comes the Plaintiff, CRYSTAL LAKE PARK DISTRICT, by its attorneys, FRANZ & KERRICK, pursuant to 735 ILCS 5/2-615 and 2-619 and moves the court to strike and/or dismiss Buonauro's "Motion For Declaratory Judgment Order." In furtherance hereof, Plaintiff states the following:

1.

Section 2-615. The Motion is not in proper form and should be stricken:

1. No such motion as a "Motion For Declaratory Judgment Order" is recognized by the Code of Civil Procedure, and it is a re-hash of Defendants' prior faulty "Motion to Cancel Deed," which motion was also not recognized by the Code.

2. Further, the substance of the relief requested, to cancel and rescind the deed, cannot be obtained by motion.

3. The "Motion For Declaratory Judgment Order" fails to affirmatively plead which section of the Code it is filed pursuant to, as required by Section 2-619.1.

4. The Motion is replete with unsupported allegations of "fact," stated as evidence, which are not of record; are not sworn to on personal knowledge of the defendants; are not affirmed by affidavits as required by Rule 191; are not in any proper way, admissible evidence presently pending before the court; and are not admitted by Plaintiff. Further, motion practice only allows the submission of evidence by Rule 191 affidavits to support 2-1005 and 2-619 motions.

5. Buonauro's Motion is a disguised attempt to substantively dismiss the Complaint but without meeting the standards for 2-1005 summary judgment; or 2-619 dismissal; or complying with the Rule 191 requirement that any facts pleaded for substantive dismissal of the Complaint by motion must be sworn to by persons competent to testify, or by providing certified records. It refers to numerous dates of public records such as the abatement, but does not attach them.

6. Buonauro's Motion makes sweeping allegations of "fraud" and "misrepresentation" without stating any false representation made by the Park District. In fact, paragraphs 6 and 7 claim the "fraud" was committed by the Supervisor of Assessments (not a party herein and, in fact, deceased) when the assessor "abated said taxes illegally, thus depriving the citizens ... of their just tax monies." Paragraph 15 also alleges it was illegal to abate the taxes. But neither the Park District nor Vulcan abated the taxes, and Vulcan is also not a party, although apparently complicit in the fraud.

7. There is an exclusive statutory remedy against an assessor to collect money on his assessor's bond if he unlawfully exempts property from taxation. 35ILCS 200/25-15 (CH 120, Sec. 803). Further, the U.S. Constitution prohibits a confiscation of property from CLPD as a penalty for Vulcan receiving a wrongful tax abatement of \$5000 from the assessor as demanded by Buonauro. Buonauro cites no legal authority for this illogic, and the result would be to revert title to Vulcan if CLPD's deed is canceled, the same person claimed to have profitted from the "fraud."

8. Buonauro demonstrates he has no standing to "cancel" CLPD's 1970 deed from Vulcan because Buonauro does not claim title or reversionary title in Buonauro, but rather, admits the land was owned by Vulcan and deeded by Quit Claim Deed by Vulcan to CLPD, and at No. 8:

"the land which was the subject matter of the deed in question herein was owned by a private enterprise, Vulcan Materials Company, Grantor in the deed in question, and its predecessors." [emphasis added]

9. The court must accept Buonauro's admission. In a similar quiet title action, a defendant who appeared to be an intermeddler, wanted the court to hear 25 objections it had to Plaintiff's title. But the court peremptorily entered a judgment against the defendant because the defendant did not claim it had the title. Thus, there was no title issue to try as between plaintiff and that particular defendant.

10. Among other things, that defendant admitted Plaintiff's predecessor owned title but objected that the deed to Plaintiff may have been faulty or left a remainder interest in others. The

court, however, found the defendant could not be heard to complain of these things because he was not claiming he owned the land. He could, therefore, not complain of how good or bad the deed was. Based on this admission, no trial was conducted, and judgment was peremptorily entered quieting title against that defendant, Rush v. Hubbart, 393 Il 228, 65 NE2d 681 (1946).

11. Accordingly, in a companion motion, CLPD is asking the court to enter summary judgment against Buonauro based on his admission in this Motion that the land was owned by Vulcan and deeded to CLPD.

12. Buonauro's Motion for Declaratory Judgment Order should be stricken.

2.

Section 2-619. The Motion for Declaratory Judgment Order should be substantively dismissed with prejudice as allowed by Section 2-619 (a)(9).

13. The Motion should be dismissed with prejudice under 2-619 based on the attached certified records, Exhibit A. Aside from this being Buonauro's second effort to plead fraud by Motion, the present pleading presents a statement of "facts" at paragraph 10 which is calculated to mislead the court to believe the tax abatement preceded the gift of the deed to CLPD and was CLPD's consideration to Vulcan for the deed. Buonauro's paragraph 10 states that based on the representations of the Park District to the assessor in 1969 and 1970, the taxes were abated and Vulcan

"having been relieved of the burden of paying said taxes, delivered" the deed to the Park District.

14. In fact, the public record demonstrates Vulcan's deed to CLPD was recorded July 6, 1970. After that, from August until October, 1970, the Park District applied for and was granted a tax abatement. Those official certified records, are attached at Exhibit A. They speak for themselves to directly contradict the unsupported statement of facts and timeline claimed in Buonauro's Motion.

15. Thus, it is legally impossible that the Park District obtained a tax abatement for Vulcan as consideration for Vulcan delivering a deed "having been relieved of paying said taxes", as pleaded at No. 10. The abatement clearly followed the gift of the deed. Further, reference to CLPD's exemption request of August 19, 1970, accurately represents CLPD's deed was recorded in July, 1970; not 70 or 80 years before. CLPD did not "misrepresent" that it had owned the property for the years the taxes were assessed as suggested by Buonauro.

16. Accordingly, claims of Buonauro to defend based on a "fraudulent deed" arising from an abatement should be determined and dismissed with prejudice and barred as a defense herein, all as provided by Subsection (c) of 2-619. The public record clearly shows the abatement was preceded by accurate full disclosure to the assessor by CLPD of pertinent dates and facts. The public record clearly shows Vulcan did not deed the land after having been relieved of the taxes by an abatement. The dates hinted at by

Buonauro do not reconcile to the actual dates in the public record.

17. Buonauro's fraud motion is prosecuted in bad faith for the ulterior purpose of burying the Park District in frivolous motions; to intimidate the Park Board of Commissioners with counsel's public announcement he is suing the district for "fraud"; and to worry the district that he plans to have his fees allowed against the board because of the "fraud;" see Exhibit B. In short, we are dealing with nonsense. For the second time, Buonauro has filed a motion asking that CLPD's deed be "canceled" based on "fraud," but no known procedure allows affirmative relief to a defendant via an unspecified, unverified, unsupported "motion" which also wholly fails to plead the elements of a cause of action; claims the fraud was committed by someone else; and admits Buonauro does not own the lake anyway.

18. To further demonstrate sanctions should be allowed against Buonauro defendants, we submit that the court can readily determine from the collection of Buonauro's four companion motions, taken as a whole, that they are a calculated effort to harass, to cause unnecessary delay and needless increase in the cost of litigation:

A. In Motion 1, Buonauro insists on having a hearing on the moot question of whether CLPD's former attorney, Cowlin, would have been disqualified by conflict of interest had he not already voluntarily resigned. Mr. Cowlin already withdrew his Appearance with leave granted in a court order, and he is not before the court

for an adjudication. There is no jurisdiction over Mr. Cowlin.
(Buonauro's Motion to Disqualify Counsel)

B. In Motion 2, Buonauro wants CLPD restrained from possession of its own real estate and title documents which its former attorney kept for CLPD for 25 years. Buonauro wants CLPD restrained from admitting its title documents into evidence to quiet its title. Finally, without identifying a single extant piece of evidence confidential to the defendant, City of Crystal Lake, Buonauro wants Mr. Cowlin enjoined from disclosing the city's secret title evidence to CLPD, albeit (1) the court has no jurisdiction over Mr. Cowlin; (2) Mr. Cowlin denied at deposition that such evidence exists; (3) the city is represented by an independent law firm which needs no gratuitous assistance from Buonauro to protect the city's own confidences; and (4) title law has, for several hundred years, been based on public records instead of on secret evidence (Buonauro's Motion to Restrain Counsel).

C. In this Motion 3, Buonauro claims the assessor committed fraud on Grafton Township taxpayers and to penalize the evil, CLPD should forfeit its real estate (obviously reverting it to Vulcan). Meanwhile, Buonauro acknowledges that Vulcan, did in fact, own the subject real estate before deeding it to CLPD (Buonauro's Motion for Declaratory Judgment Order).

D. In Motion 4, Buonauro asks the court to add several other unidentified people as defendants so that the court may determine other issues not pending in the quiet title cause of action.

Although Buonauro admits Buonauro does not own title, he has great curiosity as who all may have riparian rights which Buonauro wants the court to advise on. (Buonauro's Motion to Dismiss or to Add Necessary Parties).

E. To place the four Buonauro motions in proper perspective, should the court have any lingering doubt but that Buonauro is attempting to bury the court in frivolous hearings and pleadings, we bring to the court's attention a document filed in the docket by Buonauro which we attach hereto as Exhibit C. It is a notice of court appearance and a Suggestion of Death of "Defendant herein, Ben A. Chelini." However, Ben A. Chelini is a stranger to this suit, and he never has been a defendant. Nor did he live in or own real estate in Crystal Lake at the time of his death (which would have been public record). Franz & Kerrick investigated this document further when they realized they had assisted Mr. Chelini with his affairs shortly before his death and could not recall he was involved in this suit. In short, Buonauro filed the document solely to take up space in the court file; to preoccupy CLPD attorneys with more work to do; and to make it appear to the court that this case will be very confusing to complete.

19. Sanctions should be awarded against Buonauro defendants pursuant to Rule 137 to allow CLPD reasonable attorney's fees to respond to all the hearings, motions, and pleadings which are frivolous, and collectively filed in bad faith.

WHEREFORE, Plaintiff, CRYSTAL LAKE PARK DISTRICT, moves the court:

A-44

1. To strike the "Motion For Declaratory Judgment Order" pursuant to 2-615; and/or

2. To dismiss the "Motion for Declaratory Judgment Order" with prejudice and bar the defense of a fraudulent deed arising from a tax abatement, pursuant to 2-619.

3. To impose sanctions against Buonauro defendants and allow reasonable attorneys' fees, with the amount of said fees to be determined at a later date convenient to the court.

Date: October 18, 1996

Respectfully Submitted,

FRANZ & KERRICK

BY: Jandra Kerrick

FRANZ & KERRICK
Attorneys for Plaintiff,
Crystal Lake Park District
453 Coventry Green
Crystal Lake, IL 60014
(815) 459-8100

OFFICE OF
SUPERVISOR OF ASSESSMENTS
COUNTY OF McHENRY

SUPERVISOR OF ASSESSMENTS
DONNA G. MAYBERRY, C.I.A.O.

CHIEF DEPUTY
LYDIA (LEE) FRANCE, C.I.A.O.



COUNTY GOVERNMENT CENTER
2200 N. SEMINARY AVENUE
WOODSTOCK, IL 60098-2698
(815) 334-4290
FAX (815) 338-8522

CERTIFICATION OF PUBLIC RECORDS

I, the undersigned, Donna G. Mayberry, hereby certify that I am the McHenry County Supervisor of Assessments and the attached are true and correct copies of official assessment records of McHenry County taken from the tax abatement file for Crystal Lake Park District's 1970 application to abate taxes on the lake known as Crystal Lake:

1. Deed, 526706, recorded July 6, 1970
2. Cowlin Letter to Board of Review, August 19, 1970
3. Cowlin letter to Board of Review, September 29, 1970
4. Cowlin letter to Supervisor of Assessments dated October 16, 1970 with attached photocopy of Huntley Farmside publication.
5. McHenry Supervisor of Assessments, Certificate of Error for 1949-1969, October 29, 1970 for Item 9-1 (former unique number).
6. McHenry Supervisor of Assessments Certificate of Error for 1969, dated October 29, 1970 for Item 9-7 (former unique number).
7. McHenry County Board of Review Docket #831 Page #1694 dated October 29, 1970 Exemption Certificate to Department of Revenue for 194.24 acres owned by Crystal Lake Park District.
8. Illinois Dept. of Legal Government Affairs Docket No. 70-687 Order of Exemption signed May 14, 1971 for 1970, docketed by McHenry County Board of Review Docket #831 Page #1694 dated October 29, 1970.

Dated: October 16, 1996

Supervisor of Assessments

By Donna G. Mayberry
Donna G. Mayberry

A-46.

EXHIBIT

A

526706

526706

Geo E Cook & Co Chicago
LEGAL BLANKS No. 821
(NEW MARCH 1937)
QUIT CLAIM DEED—Statutory
(ILLINOIS)
(CORPORATION TO CORPORATION)

*H. Kopton
Algonquin*

STATE OF ILLINOIS
FILED FOR RECORD
1970 at 11:10
July 6
Harry C. Klement
NOTARY PUBLIC

JUL 6 70

526706

Approved By Chicago Title and Trust Co.
Chicago Real Estate Board

(The Above Space For Recorder's Use Only)

THE GRANTOR Vulcan Materials Company,

a corporation created and existing under and by virtue of the laws of the State of New Jersey and duly authorized to transact business in the State of Illinois, for the consideration of one ----- DOLLARS, In hand paid,

and pursuant to authority given by the Board of Directors of said corporation CONVEYS and QUIT CLAIMS unto Crystal Lake Park District, a general park district

organized and existing under and by virtue of the laws of the State of Illinois having its principal office in the County of McHenry and State of Illinois all interest in the following described Real Estate situated in the County of McHenry and State of Illinois, to wit:

That part of the Northwest quarter of Section 1, of the Northeast quarter of Section 1, and of the Southeast quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest quarter of Section 6, of the Northwest quarter of Section 6, of the Northeast quarter of Section 6, and of the Southeast quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake.

Grantee's Address:
300 Lake Shore Drive
Crystal Lake, Ill.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Executive Vice President, and attested by its Secretary, this 26th day of June, 1970.

Vulcan Materials Company
(NAME OF CORPORATION)
BY *W. H. Blount* Executive Vice President
ATTEST: *J. O. Screven* SECRETARY

Alabama
State of Illinois County of Jefferson ss., I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that W. H. Blount, personally known to me to be the Exec. Vice President of the Vulcan Materials

Company, a New Jersey corporation, and J. O. Screven, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Exec. Vice President and Secretary, they signed and delivered the said instrument as Exec. Vice President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of June, 1970.
Commission expires January 1973
Commission expires 19
Norma B. Belts
NOTARY PUBLIC

MAIL TO: NAME _____
ADDRESS _____
CITY AND STATE _____

ADDRESS OF PROPERTY _____
THE ABOVE ADDRESS IS FOR STATISTICAL PURPOSES ONLY AND IS NOT A PART OF THIS DEED

AFFIX "RIDERS" OR REVENUE STAMPS HERE

DOCUMENT NUMBER

A-4

Braff Lands	$\frac{P1}{L1+7}$	Stems 9-1	- 70.00
		Stems 9-7	- 32.60
<hr/>			
Alg Lands	$\frac{P17}{L7}$	Stems 17-134	- 91.64

August 19, 1970

Board of Review
 McHenry County Courthouse
 Woodstock, Illinois
 60098

Gentlemen:

Application is hereby made on behalf of the Crystal Lake Park District for exemption from taxation on the following described property:

1. Premises in question are described as follows:

That part of the Northwest Quarter of Section 1, of the Northeast Quarter of Section 1, and of the Southeast Quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the lake commonly known as Crystal Lake, and that part of the Southwest Quarter of Section 6; of the Northwest Quarter of Section 6, of the Northeast Quarter of Section 6 and of the Southeast Quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake, in McHenry County, Illinois.

2. The property is owned by the Crystal Lake Park District, a general park district organized and existing under and by virtue of the laws of the State of Illinois.

3. Correspondence should be addressed to M. Kendall Bird, President of the Crystal Lake Park District, 418 Eugene Court, Crystal Lake, Illinois.

4. Title was acquired by dedication and Quit-Claim Deed.

5. Quit-Claim Deed was executed on June 26, 1970.

6. Quit-Claim Deed was recorded July 6, 1970.

7. Quit-Claim Deed was recorded as Document number 526706.

Board of Review
August 19, 1970
Page #2

8. The land is used and will continue to be used as a part of the premises of said Park District.

9. The land will be used by the residents of the Crystal Lake Park District, and from time to time by the general public, as required.

10. There will be no income from the land.

11. There are no buildings on the land.

12. There will be no income from any source.

13. The land will be used and maintained by the Crystal Lake Park District as a part of the premises of said District.

I would appreciate it if you will keep me informed of the progress of this matter.

Very truly yours,



John L. Cowlin
Attorney for the Crystal Lake
Park District

JLC:ir

COWLIN AND COWLIN

ATTORNEYS AT LAW

20 GRANT STREET

CRYSTAL LAKE, ILLINOIS 60014

HENRY L. COWLIN

JOHN L. COWLIN

WILLIAM J. COWLIN

TELEPHONE 459-5300

AREA CODE 815

September 29, 1970

Board of Review
McHenry County Courthouse
Woodstock, Illinois. 60098

Gentlemen:

On August 19, 1970, I filed with the Board of Review an Application for Exemption from Taxation on the following described property:

That part of the Northwest Quarter of Section 1, of the Northeast Quarter of Section 1, and of the Southeast Quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the lake commonly known as Crystal Lake, and that part of the Southwest Quarter of Section 6; of the Northwest Quarter of Section 6, of the Northeast Quarter of Section 6 and of the Southeast Quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake, in McHenry County, Illinois.

The property lies beneath the waters of Crystal Lake, and I am presently engaged in clearing the title in the name of the Crystal Lake Park District.

It has come to my attention that there are certain back real estate taxes which remained unpaid at the time the Crystal Lake Park District received the deed to the property. These taxes are on lands located in both Grafton and Algonquin Townships. Apparently the previous owner, Vulcan Materials, paid the taxes on part of the property but overlooked or failed to pay the total back tax due. The lands in question have two separate assessments; one for Grafton Township and one for Algonquin Township, and although they are within sixteen acres in size of each other, one assessment was five times the amount of the other.

It is my understanding that the Board of Review will not grant an exemption from taxation unless the back taxes are paid or

Board of Review
September 29, 1970
Page 2.

abated on the property. Considering the nature of the property, its location and possible use, and the fact that it is now owned by the Crystal Lake Park District, I would request that the Board of Review abate the back taxes with the exception of those taxes which were sold to the Tax Security Corporation on October 23, 1967. With regard to those taxes, it is my intention to see that they are taken care of prior to action of the Board of Review.

I would also request that once the taxes are abated, the Board grant exemption for the property for the Crystal Lake Park District.

Very truly yours,



John L. Cowlin
Attorney for the Crystal
Lake Park District

JLC:ir
cc to Mr. Cornue

C001077

A-51

COWLIN AND COWLIN

ATTORNEYS AT LAW
20 GRANT STREET
CRYSTAL LAKE, ILLINOIS 60014

HENRY L. COWLIN
JOHN L. COWLIN
WILLIAM J. COWLIN

TELEPHONE 459.5800
AREA CODE 815

October 16, 1970

Supervisor of Assessments
McHenry County Courthouse
Woodstock, Illinois. 60098

Attention of Mrs. Shirley McBroom

Dear Shirley:

I have spoken to Jim Oerkfitz regarding the taxes on the bottom of the lake property, and I find as follows: The Vulcan Material Corporation paid taxes on property in Grafton Township, 32.60 acres: 1967 taxes \$91.83; 1968 taxes \$100.98; first installment 1969 taxes \$50.69. In addition the Park District redeemed the 1966 taxes sold to Tax Security Corporation in the amount of \$84.67.

Vulcan Material also paid taxes on 91.64 acres located in Algonquin Township and comprised of 1947 through 1968 taxes, totalling \$1,349.33. I do have copies of the receipt from the County Clerk.

To the best of my knowledge, there remained unpaid at the time the property was transferred to the Crystal Lake Park District, 1949 through 1968 taxes on .70 acres of land in Grafton Township in the amount of \$5,153.41. In addition, the amount listed in the Huntley Farmside appears to cover the second installment of the 1969 taxes on 32.60 acres located in Grafton Township. I believe that the Vulcan Material Corporation left the \$5,000.00 tax unpaid since it covered a period two years short of that on the Algonquin Township property, and since it was some 21 acres less in size but had a tax due of five times the amount on the Algonquin property.

If you have any further questions regarding this matter, please contact me.

Very truly yours,


John L. Cowlin (ll)

JLC:ir

A-51

The cost of each piece of estate listed below is \$1.00. Paid before sale the \$1.00 is in addition to all unpaid taxes and interest on the 1st installment after the 1st of June and on the 2nd installment after the 1st day of September at the rate of one per cent per month until paid or forfeited. Parts or fractions of a month are regarded as a month.

**SECTION 1
TOWNSHIP 43 RANGE 7**

1 Consumer's Co (Ex pt CL Country Club Addn) Lt 1 NE¼ & (Ex pt Prospect Point & Ex pt Resub Prospect Point) & Pt SE¼ 70a B5,153.41
7 R A Cepek pt lot 1 & 2 NW¼ 32.60a 50.69

SECTION 5

36 Michael & Shirley Zorica Doc 435847 W 251.5' E 503.05' NW¼ SE¼ 7.55a 90.98
3 Michael & Shirley Zorica DR 681 P 144 E 251.55' NW¼ SE¼ 7.55a 344.89

SECTION 6

58 Chgo Congregational Union Chgo City Missionary DR 422 P 337 E 5a N 60a NE¼ 5a B119.01
59 Chgo Congregational Union Chgo City Missionary DR 422 P 337 (Ex E 5a) N 60a NE¼ 55a B1,201.06
60 Chgo City Missionary Society Doc 453527 S 20 rd stp N½ NE¼ & all SW¼ NE¼ 60.10a B365.72
61 Chgo City Missionary Society Doc 453527 SE¼ NE¼ 40a B793.71
64 Chgo City Missionary Society Doc 453527 Tri pc SE cor NW¼ & NEly of Kishwaukee River SW¼ 59.61a B363.29

SECTION 11

127 George E & Dorothy E Evans Doc 464852 E 849.82' SEly of c Pub Hy NE¼ SE¼ & S of c Pub Hy E¼ NE¼ 30.25a 1,585.16
133-3 Marion & Grace Yeagle S 698' E pt SW¼ SW¼ Doc 438358 4.00a 36.87

SECTION 12

142-2 La Salle Nat'l Bank Tr 28449 DR670P313 Pt NE¼ NE¼ (ex Doc 508653) (Ex Doc 518410) 14.16a 92.16

**ADRIANS ADDN
VILL OF HUNTLEY**

645-1 James R & Jean Eggebrecht Doc 496845 Lt 4 Blk 1 168.49

**BAKLEY'S 1ST ADDN
VILL OF HUNTLEY**

662 Donald M & Janis E Andersen DR 666 P 357 Lt 12 183.97
664-1 John E & Martha A Manning DR 589 P 525 (Ex S 8.3') & S 4.3' Lts 14 & 15 223.01

**HUNTLEYS ADDN
VILL OF HUNTLEY**

777 William M & Gail G Bohatka (Ex E 16½') Doc 492147 Lt 17 Blk 1 260.25
834 Lawrence E & Carol L Barton Doc 492147 Lt 2 Blk 2 174.77

**KEATING'S ADDN
VILLAGE OF HUNTLEY**

848 Village of Huntley Doc 481832 Lt 5 Blk 3 67.32

WELTZIENS ADDN

892 Catherine Rubash N 74' DR 362 P 311 Lt 4 Blk 4 503.00

CLOWS CRYSTAL LK PARK

949 Minnie Kahlke DR 298 P 1 City of C Lk Lt 9 Blk 2 .20a 193.22
958 John T & Julia Niland Doc 463-168 Lts 19 & 20 Blk 2 .30a 573.99

**ROBT BARTLETT'S SUB OF
COLLEEN'S COTE**

963-10 Robert Bartlett Tr. Doc 508-712 Lt 11 12.03
963-11 Timothy D & Marjorie A Swanson Doc 496281 Lt 12 60.12
963-26 Jerry R & Shirley L Collins Doc 459221 Lt 27 348.70

COUNTRY CLUB ADDN

938 Robt J & Mildred B Mack DR 356 P 171 Lt 3' blk 19 340.09
997 Albert J & Elizabeth Woermann Doc 496108 Lt 8 blk 20 101.02
999 Richard J & Corinne T McCall Doc 457717 Lt 2 blk 21 731.81
1055 Henry J & Grace K King DR 659 P 358 Lt 19 blk 30 350.75
1075 Walton M Jr & Patricia Gay Beasley DR 458 P 102 Lt 18 blk 31 432.68
1108 Samuel G Stone DR 334 P 105 Lt 5 blk 33 405.19
1109 Daniel R Ossman DR 363 P 391 Lt 6 blk 33 357.49

967 Lts 11 & 12 blk 7
Dorman L & Dolores E DR 522 P 110 Lt 15 blk 7
1409 Dorman L & Dolores E DR 522 P 112 Lt 16 blk 7
1417 Oak Haven Doc 424146 blk 8
1444 Ernest F & Mildred Neu DR 344 P 504 Lt 9 blk 9
1445 Ernest F & Mildred Neu Lt 10 blk 9
1447 Dorman L & Delores E DR 539 P 470 Lt 13 blk 9
1448 Dorman L & Delores E DR 539 P 470 Lt 14 blk 9
1460 Gertrude E Cade Doc Lt 11 blk 10
1467 Rudolph & Selma Lietz 411 P 611 Lt 5 blk 11
1468 Rudolph W Lietzau Lt 6
1469 Rudolph W Lietzau Lt 7
1473 John R & Gladys B L DR 455 P 101 Lt 11 blk 11
1478 Esther B Hannibal Lt 4
1479 Walter Williams Lt 5 blk 1
1480 Elizabeth Batchauer Lt 6
1481 Lepmard Cotton Doc Lt 7 blk 12
1482 Leonard Cotton Doc Lt 8 blk 12
1483 Leonard Cotton Doc Lt 9 blk 12
1484 Louie D & Bertha H M Doc 408402 Lt 10 blk 12
1489 John R & Ethel A Veug 555 P 118 Lt 16 blk 12
1490 John R & Ethel A Veug 555 P 118 Lt 17 blk 12
1491 John R & Ethel A Veug 555 P 118 Lt 18 blk 12
1492 John R & Ethel A Veug 555 P 118 Lt 19 blk 12
1493 John R & Ethel A Veug 555 P 118 Lt 20' blk 12
1494 John R & Ethel A Veug 555 P 118 Lt 21 blk 12
1499 John R & Ethel A Veug 555 P 118 Lt 26 blk 12
1503 Theodore L Sargent

A-53

STATE OF ILLINOIS, }
COUNTY OF McHENRY, } SS:

Stanley H. Cornue, Supervisor of Assessments being first duly sworn, deposes and says that he is the duly elected, qualified and acting assessor of Grafton

Township, McHenry County, Illinois, and that in assessing the { Real Estate described as:
Item 9-1 { ~~Personal Property~~
(Ex pt CL Country Club Addn) Lt 1 NE $\frac{1}{4}$ Consumer's Co.
& (Ex pt Prospect Point & Ex pt Resub Prospect Point) & Pt SE $\frac{1}{4}$ Sec 1-43-7 owned by % Crystal Lake Park District
70 acs 49 thru 1969

in said Township, he made the assessment for the year 1969, at \$
and that said assessment { was assessed in error other than an error in judgement and should have been made at \$ none

Affiant further states that: Bottom of lake property dedicated to Crystal Lake Park District.

He Therefore Recommends that said assessment be abated in the { full amount amount of \$ Full

S. H. Cornue
Assessor.

Subscribed and sworn to before me this 29th day of Oct. A. D. 19 70

W. A. Russell
Chairman, Board of Review
Henry M. Hill
Member, Board of Review
John J. Hillier
Member, Board of Review

County Clerk
Notary Public

STATE OF ILLINOIS, }
COUNTY OF McHENRY, } SS:

Stanley H. Cornue, Supervisor of Assessments being first duly sworn, deposes and says that he is the duly elected, qualified and acting assessor of Grafton

Township, McHenry County, Illinois, and that in assessing the { Real Estate
Item 9-7 { described as:
Pt Lot 1 & 2 NW $\frac{1}{4}$ Sec 1-43-7 { ~~Consumable Property~~
32.60 acs owned by R. A. Cepek
% Crystal Lake Park District

in said Township, he made the assessment for the year 19⁶⁹, at \$ 1980

and that said assessment { was assessed in error other than an error in
judgement and should have been made at \$ none

Affiant further states that: Bottom of lake property dedicated to Crystal Lake Park District.

He Therefore Recommends that said assessment be abated in the
{ full amount
{ amount of \$ 1980

S. H. Cornue
Assessor.

Subscribed and sworn to before me this 29th day of Oct. A. D. 19 70

W. A. [Signature]
Chairman, Board of Review

Henry M. Hill
SPC Member, Board of Review

Tom J. [Signature]
Member, Board of Review

County Clerk
Notary Public

A-55

EXEMPTION CERTIFICATION - TO DEPARTMENT OF REVENUE

BOARD OF REVIEW

Docket Number _____
(To be filled in by Department of Revenue)

DOCKET # 831 PAGE # 1694

DATE OCT 29 1970

1. The Board of Review of McHenry County states that it did on the 29th day of October 1970, exempt the following described property from general taxes for the year 1970. (Give complete legal description, using supplemental sheet if necessary. If exemption has been granted to only a part of the property described, furnish scaled maps indicating uses of the several parts of the property.)

That part of the Northwest quarter of Section 1, of the North-east quarter of Section 1, and of the Southeast quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest quarter of Section 6, of the Northwest quarter of Section 6, of the Northeast quarter of Section 6, and of the Southeast quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake.

2. The property is owned by (Give full name of corporation or individual): Crystal Lake Park District

Name and address of person, officer, or agent to whom correspondence should be sent: M. Kendall Bird, President, Crystal Lake Park District, 418 Eugene Court, Crystal Lake, Ill 60014

3. Title was acquired in the following manner: Quit Claim Deed

The deed was executed on the 26th day of June, 19 70, and was recorded in the Recorder's office of the County of McHenry on the 6th day of July, 19 70, in book no. --, at page --, as document no. 526706. (If more than one deed, supply the above information for each

deed on an additional sheet. Attach photostatic or certified copy of each deed.)

4. The organization above named was formed in (give year) _____, under (give full title of Act and attach photostatic or certified copy of charter, or other document of origin) _____ State of _____

5. Description of property and use:

A. Land

- (1) Size or amount of land 194.24 acres (see sketches)
- (2) Land is used for following purposes (be specific): Lake
- (3) Name of user of land Crystal Lake Park District residents
- (4) Income derived from land nons

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B. Improvements

(1) Number of buildings none Size _____ No. of stories _____

(2) General description _____

(3) Amount of land used in connection with each building _____

(4) Income derived from use of each building _____

(5) Buildings are used for following purposes: (Describe the exact use of each building separately. If parts of a building are used in different ways, describe the use of each part separately. Supply scaled drawings, if necessary. Please be specific.)

Building or part of building _____

Name of user or tenant _____

Building or part of building _____

Name of user or tenant _____

Building or part of building _____

Name of user or tenant _____

6. Tax exemption for the property herein described was approved on the grounds that its ownership and use conformed to the stipulations set forth in section _____ paragraph _____ of the Revenue Act of _____.

7. The application for exemption filed with the Board of Review on the _____ day of _____, 19____ is attached to this notice.

8. In approving the application for exemption, the Board considered the following facts: (State all the elements which bring the applicant within the classification of persons exempt from taxation. In the case of schools, churches, etc., state the exact manner in which the property is being used for school or religious purposes, i.e., classrooms, dormitories for students, religious services, etc.)

**Recreational purposes for residents of
Crystal Lake Park District**

9. The minutes of the Board show that the following action was taken in this case: (Supply a verbatim copy of the minutes of the Board pertaining to this exemption application) **Board unanimously agreed to recommend this exemption.**

I hereby certify this to be a correct transcript of the proceedings arising in connection with the above described exemption claim.

Dated: October 29, 1970

Clerk of Board _____

(Signature)

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BOARD OF REVIEW

Dept. of Local Government Affairs Docket No. 70-687

DOCKET # 831 PAGE # 1694

DATE OCT 29 1970

*Entire District
5/20/71*

*Entire
5-17-71
(Board of Review)*

18-01-276-001
18-01-176-012
19-06-151-001

STATE OF ILLINOIS
DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS
OFFICE OF FINANCIAL AFFAIRS
160 North LaSalle
Chicago, Illinois 60601

*17 139
4-1
9-7*

Certification of Department of Local Government Affairs approval or disapproval of property tax exemption claim in accordance with Secs. 108 and 119 of the Illinois Revenue Act of 1939, as amended.

Exemption Approved for part of year

The Board of Review ~~appeals~~ of McHenry County did determine the following described property of: Crystal Lake Park District was tax exempt as of June 26, 19 70.

*Just
proposed*

Th pt of the NW $\frac{1}{4}$ of Sec 1, of the NE $\frac{1}{4}$ of Sec 1, and of the SE $\frac{1}{4}$ of Sec 1, all in Twp 43 N, R 7 E of the 3rd P. M., which is covered by the waters of the lake commonly known as Crystal Lake, and th pt of the SW $\frac{1}{4}$ of Sec 6; of the NW $\frac{1}{4}$ of Sec 6, of the NE $\frac{1}{4}$ of Sec 6 and of the SE $\frac{1}{4}$ of Sec 6, all in Twp 43 N, R 8 E of the 3rd P. M., which is covered by the waters of said lake, in McHenry County, Illinois

Also see 18-01-176-014

On the basis of the statement of facts and supporting documents, the Department of Local Government Affairs hereby approves the action of the Board of Review Appeals of McHenry County in declaring said property exempt.

Any application for review of the Department's decision shall be filed in writing with the Department within 10 days from the date of this ruling. A brief citing additional facts and authorities relied upon by the petitioner may accompany the application for review or may be submitted at a later specified date.

STATE OF ILLINOIS
DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS
R. A. Lehnhausen
Robert A. Lehnhausen, Director

Dated this 14th day of July A.D., 19 71

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IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FILED

NOV 4 1996

VERNON W. KAYS, JR.
McHENRY CTY. CIR. CLK.

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
Defendants.)

CASE NO. 95 CH 22

**REPLY TO
PLAINTIFF'S MOTION TO STRIKE AND/OR
DISMISS BUONAURO MOTION FOR
DECLARATORY JUDGMENT ORDER**

NOW COME certain Defendants, ANTHONY C. BUONAURO, et al., by their attorneys, CAMPION, CURRAN, RAUSCH, GUMMERSON & DUNLOP, P.C., and in reply to Plaintiff's Motion to Strike and/or Dismiss Buonauro Motion for Declaratory Judgment Order state as follows:

I. BUONAURO'S MOTION FOR DECLARATORY JUDGMENT ORDER IS PROPER.

The Code of Procedure, 735 ILCS 5/2-701, specifically allows for the seeking of a declaratory judgment with respect to any controversy relating to a deed. 735 ILCS 5/2-701(a)

The Plaintiff's reference to Section 2-619-1 is inapplicable inasmuch as the requirements of that section only relate to pleadings which combine motions brought under Sections 2-615, 2-619 or 2-105.

Rule 191 does not require a sworn affidavit to support an action for declaratory judgment, nor does it require that allegations be affirmed by affidavit.

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The Plaintiff's Motion for Declaratory Judgment Order, together with the exhibits attached thereto, establish facts which, if true, would give rise to a declaration that the deed obtained by the Crystal Lake Park District was the result of fraud committed by the Park District. The allegations of Plaintiff's Motion, together with the facts established by Plaintiff's exhibit, and specifically Exhibit 2, if true, show that the Quit Claim Deed from Vulcan to the Park District was given in exchange for the Park District's improper using of its influence to 1) obtain an abatement of back property taxes owed by Vulcan with the respect the Crystal Lake property and 2) to have Three Oaks Road abandoned for the benefit of Vulcan. If these facts are disputed by the Park District, then they must answer same and this court will then conduct a hearing on this preliminary issue of whether the deed under which the Park District seeks to have its rights determined was properly obtained by the Park District. This would be an appropriate issue for the court to first determine by basis of declaratory judgment inasmuch as a decision by the court in favor of the Defendants on this issue will then result in the court not having then to determine the relevant rights of the Park District under its deed and the rights of all other landowners who have or claim to have some interest in the real estate which is the subject matter of the deed.

Paragraphs 8, 9, 10 and 11 of Plaintiff's Motion to Strike and/or Dismiss are all based upon Plaintiff's mis-assertion of a certain allegation in contained in Defendants' pleading. In restating the allegations contained in Paragraph 8 of Defendants' Motion for Declaratory Judgment, the Plaintiff argues that in said paragraph Defendants admit that "the land which was the subject matter of the deed in question herein was owned by a private enterprise, Vulcan Materials Company." Unfortunately, Plaintiff has either inadvertently or

knowingly failed to properly restate the allegation and as a result, makes substantial inaccurate arguments concerning admissions.

Paragraph 8 of Defendants' Motion for Declaratory Judgment does not admit that "the land" was owned by a private enterprise, rather, the allegation is "that during the years of 1968 and 1969 and for many years prior thereto, much of the land which was the subject matter of the deed in question herein was owned by a private enterprise, Vulcan Materials Company . . ." [emphasis added].

Whether Plaintiff intentionally or inadvertently failed to properly restate Defendants' assertion, it is nonetheless clear that Defendants have neither stated nor admitted that all of the land which is the subject matter of the deed was owned by Vulcan Materials. Defendants acknowledge that much of the land was owned by Vulcan, but in fact, as will be shown at the appropriate time in this litigation, many portions of the land which is the subject matter of the deed were and are owned by one or more of the Defendants or others.

II. PLAINTIFF'S 2-619 MOTION TO DISMISS IS IMPROPER.

Rather than attempting to answer the allegations relating to Defendants' declaratory judgment action, the Plaintiff simply attaches documents showing that what Defendants alleged to be the quid pro quo of the Vulcan deed, the abatement of Vulcan taxes, i.e. was actually accomplished by the Park District. The Plaintiff does not deny any efforts were made prior to the obtaining of the deed, as alleged in the Complaint, nor does the Plaintiff deny that which is clearly shown by Defendants' Exhibits 1 and 2, that part of the contemplated quid pro quo of the delivery of deed from Vulcan to the Park District was the abatement of taxes owed by Vulcan.

III. DEFENDANTS' MOTIONS HAVE BEEN BROUGHT IN GOOD FAITH.

In its response to the subject motion, the Plaintiff argues that this, as well as other motions, have been brought in bad faith.

The first motion they claim is unjustified is the Defendants' Motion to Disqualify Crystal Lake Park District's attorney, John Cowlin. However, when the Motion was filed, Mr. Cowlin was the attorney for the Plaintiff and obviously, based upon that Motion Mr. Cowlin withdrew. However, there still needs to be a determination that Mr. Cowlin can never be the attorney for the Crystal Lake Park District and the court needs to resolve the issue of his disqualification in these proceedings.

Plaintiff next takes exception to the Defendants' Motion to prevent the exchange of documents or information from the Cowlin law firm to the Crystal Lake Park District's lawyers, which information or documents was obtained by the Cowlin law firm as a result of their being attorneys for the City of Crystal Lake. Defendants are merely asking what the law and the professional code of ethics require — that there be an order preventing the disclosure of any of such confidentially obtained documents or information.

Plaintiff further argues that Defendants' Motion for cancellation of deed based upon fraud is frivolous because Defendants acknowledged that Vulcan owned all of the subject property. As shown above, it is the Plaintiff who either inadvertently or intentionally has misstated this matter and presumably will withdraw its argument in this regard.

Plaintiff further asserts that Defendants' Motion to add additional party defendants is inappropriate because, again, Plaintiff asserts that Defendants have admitted that Vulcan

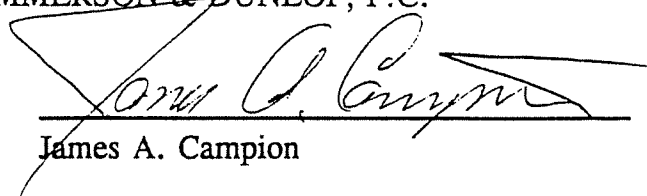
owned the property. Again, it is presumed that Plaintiff will withdraw this argument based upon their inaccurate statement of the facts.

Finally, Plaintiff takes offense at the filing by the Defendants of a Suggestion of Death of Defendant, Ben Chelini. Mr. Chelini was the beneficial owner of McHenry State Bank Land Trust No. 12638, one of the Defendants herein, and the filing of the Suggestion of his death was appropriate.

For all of the above reasons, Defendants request this court deny Plaintiff's Motion to Strike and/or Dismiss and require Plaintiff to file an answer to Defendants' Motion for Declaratory Judgment Order.

CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.

By:



James A. Campion

CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.

Attorneys for Certain Defendants

8600 Route 14, Suite 201

Crystal Lake, IL 60012

815/459-8440

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IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS

FILED
NOV 12 1996

CRYSTAL LAKE PARK DISTRICT,
an Illinois Municipal Corporation,
Plaintiff,
v.
ANTHONY C. BUONAURO, et al.,
Defendants.

Sally A. Coffelt
CIRCUIT CLERK

No. 95 CH 22

PLAINTIFF'S RESPONSE TO BUONAURO'S
REPLY REGARDING PLAINTIFF'S
MOTION TO STRIKE AND/OR DISMISS
BUONAURO MOTION FOR DECLARATORY
JUDGMENT ORDER

NOW COMES CRYSTAL LAKE PARK DISTRICT, Plaintiff, by its attorneys, FRANZ & KERRICK, and for its Response says as follows:

Section 2-615.

Buonauro's Reply is wholly unresponsive. The Reply fails to cite any provision of the Code of Civil Procedure which allows it to have a declaratory judgment action heard by motion practice. To the extent a judgment order is available by motion practice, it must be by summary judgment motion; it must abide by strict pleading rules, including compliance with Rule 191 on admissibility of evidence for determining the motion.

After claiming he does not have to follow Rule 191 because his Motion is neither a 2-615, 2-619, or 2-1005 motion, Buonauro then goes on at page 1 to claim incongruously that his Motion is an "action" for declaratory judgment, apparently absolving him from meeting the requirements for either motions or counterclaims.

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What we have here is a "motion-action". The "motion" fails to comply with Rule 191 for motion practice, and the "action" :

A. fails to be denominated a "Counterclaim" per 2-608;

B. fails to comply with 2-601 that all "actions" must state a "cause of action";

C. fails to plead the elements of fraud vis-a-vis Buonauro as counterplaintiff and CLPD as counterdefendant (e.g. the fraud was committed by a dead assessor and no reliance by Buonauro on any misrepresentation by CLPD is alleged); and

D. fails to comply with the Declaratory Judgment statute, 2-701, which among other things, requires there be an actual controversy to declare the "rights of the parties interested." Buonauro claims the assessor committed the fraud and suggests Vulcan was the perpetrator, but neither of them is sued by Buonauro in this "action" by Buonauro to rectify their fraud.

E. Further, Buonauro fails to make any allegations of fact to demonstrate Buonauro's own interest in canceling a deed from Vulcan to CLPD because of "fraud". Presumably, if CLPD defrauded Vulcan of a deed, Vulcan could cancel it, but why Buonauro is an "interested party" to gratuitously file an "action" for Vulcan to recover its land from CLPD when Vulcan is the alleged fraudfeasor makes no sense in either a "motion" or an "action".

F. Buonauro made the same pleading and procedural errors in his prior "Motion to Cancel Deed."

Thus, the "motion-action" must be stricken under 2-615 and not allowed to be re-pleaded. No such "motion" is recognized. No such "action" for fraud, as presently pleaded, is recognized.

The law is clear that when one pleads an action for declaratory judgment, he is obliged to plead the elements of the underlying cause of action such as breach of contract or fraud, Denkewalter v. Wolberg, 37 Ill Dec 883, 885, 402 NE2d 885, 82 IllAp3d 569 (1st Dist. 1980). Here, Buonauro fails to answer the objection that he failed to plead the elements of a cause of action for fraud. He simply ignores the objection and asks for judgment anyway.

Section 2-619

CLPD also moves pursuant to 2-619 to substantively dismiss the "action" captioned "Motion For Declaratory Judgment Order." In support, CLPD filed certified public records of its 1970 Vulcan deed and the official records of the tax abatement proceeding as allowed by 2-619 and Rule 191. The documents are directly contrary to what Buonauro alleges.

Buonauro was given the opportunity to respond to CLPD's 2-619 Motion, but Buonauro filed no counteraffidavits or pertinent certified records as Rule 191 allows Buonauro to do. Thus, the court must accept CLPD's properly filed records as correctly setting forth the public record of the Vulcan deed and the tax abatement.

Section 2-619 (c) provides the court may decide the motion on the affidavits and evidence offered by the parties when no jury is involved. Here no admissible evidence was offered by Buonauro to contradict the proper evidence submitted by CLPD, and accordingly, we ask the court to substantively dismiss the fraud "action".

In addition we also ask the court to consider:

(a) the failure of Buonauro to plead a single fact of his own interest in the Vulcan land if the deed were canceled and the land reverted to Vulcan; and the converse

(b) Buonauro's collection of admissions in the record of Buonauro's non-ownership, which we will review below.

In Buonauro's companion "Reply to Plaintiff's Supplemental Reponse to Buonauro's Motion to Dismiss or to Add Necessary Parties", page 1, Buonauro acknowledges that the owners of the portions lake in certain subdivisions referred to in Plaintiff's Complaint were not joined as parties here because they claim title under a "Field deed", (but Buonauro requests they be joined as defendants anyway).

Now, let us specifically look at the collective word-for-word admissions in Buonauro's "action" pleading, and consider what the only conclusion can be:

Page 1 of the Motion:

Buonauro defendants "move[to enter an Order] finding the Quit Claim Deed dated June 26, 1970 in which Vulcan Materials Company sought to convey to the CLPD, Plaintiff herein, certain real estate located in McHenry County which is the subject matter of this litigation, to be null and void as having

been procured by fraud on the part of the Plaintiff

Page 2, No. 2 and 3 of the Motion:

"2. That the legal description contained in said deed read [sic] as follows:

That part of the Northwest Quarter of Section 1, of the Northeast Quarter of Section 1, and of the Southeast Quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest Quarter of Section 6, of the Northeast Quarter of Section 6, and of the Southeast Quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal meridian, which is covered by the waters of said lake.

which said property constitutes part of the lakebed of Crystal Lake in McHenry County, Illinois."

"3. That in 1969 and 1970 the Crystal Lake Park District through its agents represented to certain governmental tax agencies in the County of McHenrythat taxes previously assessed prior to the year 1970, during which time the property was in fact owned by private entities, specifically, to-wit: VULCAN MATERIALS COMPANY and its predecessor corporations, should be abated as said property was as of June 26, 1970 to become the property of the Crystal Lake Park District.."

Page 3, No. 5 and 6 of the Motion:

"5. That the consideration for said Quit Claim Deed was the abatement of certain real estate taxes"

"6. [That the assessor] changed the assessments previously and legitimately made upon said land while in private ownership as hereinbefore described thus depriving the citizens of the County of McHenry of their just tax monies."

The Page 1 quotation establishes that the real estate which Vulcan sought to convey is the subject matter of this litigation. The Page 2, No. 2 quotation clarifies that the legal description in the Vulcan deed "constitutes part of the lakebed." It is clear that Plaintiff's Complaint and Buonauro's companion brief on Necessary Parties acknowledges CLPD does not claim to have received the part of the lakebed in three subdivisions from Vulcan.

The most important admission by Buonauro is Page 2, No. 3 where he inserts a clause as an aside: "during which time the property was in fact owned by Vulcan..."

Contrary to Buonauro's Reply brief where he now claims it should be obvious to CLPD and the court that Buonauro is claiming the land for himself, the exact opposite is true. Buonauro is stating as fact in his "action" that Vulcan owned the subject matter of this litigation before it deeded it to CLPD as a part of a fraud scheme to avoid a tax Vulcan owed the public.

Buonauro's Paragraph 3 statement unequivocally, and word-for-word, says the property was in fact owned by Vulcan. Now Buonauro tries backtracking by writing in his Reply brief that he actually claims some of Vulcan's land himself. Counterclaim "actions" are not pleaded by supplements in party's briefs after their admissions to the contrary.

For further confirmation that Buonauro meant exactly what he said, he went on at No. 5 and No. 6 on Page 3 of the Motion to complain the assessments on the property were previously legiti-

mately made upon "said land while in private ownership as hereinbefore described."

The only conclusion the court can reach from reading Buonauro's purported complaint for fraud is that Vulcan owned the land and cheated its way out of paying real estate taxes it owed by deeding Vulcan's land to CLPD, and Buonauro will not tolerate it.

On the other hand, if Buonauro owned the land, then Vulcan never owed a tax and the taxpayers were not defrauded by Vulcan and CLPD.

Buonauro cannot have it both ways. For this reason we have filed a companion Motion For Summary Judgment which should be granted based on the collection of multiple admissions by Buonauro that Vulcan owned the land which is the subject of this litigation, and Vulcan rightfully owed taxes on the land.

We submit the court must substantively dismiss Buonauro's Motion For Declaratory Judgment Order under 2-619. CLPD filed certified documentary evidence proving Buonauro's statements that Vulcan first received an abatement, and then Vulcan deeded the land to CLPD as part of a fraud scheme were false. Buonauro's admissions further demonstrate Buonauro is not interested in Vulcan's deed and is precluded from contesting it because Buonauro will not receive a reversion of the land even if the deed is canceled as Buonauro requests.

Sanctions

Finally, we urge the court to allow sanctions for the collective effect of Buonauro's four companion motions. Buonauro's

claims grow wilder day by day and are wholly irresponsible.

Without so much as even addressing the fact that, in Mr. Cowlin's absence, the court is without jurisdiction to adjudicate Mr. Cowlin's qualifications to handle this litigation (the motion alleged conflict of interest), Buonauro's new Reply, page 4, now urges:

"..... there still needs to be a determination that Mr. Cowlin can never be the attorney for Crystal Lake Park District....."

Buonauro is no longer concerned with this litigation. He now urges a comprehensive lifetime injunction against Mr. Cowlin, who served the Park District for the past 25 years and has more knowledge of its legal affairs than any other person. Mr. Cowlin has many decades of legal work ahead of him, and Buonauro is trying to politically manipulate who may counsel the Park District in future years on unrelated matters which in no way concern Buonauro or involve any perceived conflict of interest. The duly elected officials of the Park District should retain the authority to hire future legal counsel satisfactory to them without Buonauro's interference on matters which do not concern Buonauro, or require monitoring by the court.

While we do not wish to belabor the Chelini "Suggestion of Death" issue, we note in passing Buonauro had an Order entered allowing a substitution of Chelini's executor as a party within 30 days, but no such substitution has been filed insofar as we are to determine. We are aware Mr. Chelini's son of the same name may own

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property along the lake, but the deceased claimed immediately prior to death to own no real estate in Illinois.

Because a quiet title action is in rem, there is no reason a beneficiary of a land trust would be joined as a defendant. The beneficiary is, in fact, irrelevant. Adding such defendants bogs down the court file and adds to the commotion, which we submit is Buonauro's intention.

WHEREFORE, CRYSTAL LAKE PARK DISTRICT moves the court to substantively dismiss under 2-619, or to strike under 2-615, Buonauro's "Motion For Declaratory Judgment Order"; and to award sanctions against Buonauro for his collective prosecution of the four companion motions, allowing CLPD attorney's fees for responding to them commencing as of the date of John Cowlin's withdrawal on April 1, 1996.

Dated: November 8, 1996

Respectfully Submitted,
FRANZ & KERRICK

By

Sandra Kerrick

FRANZ & KERRICK
Attorneys for Plaintiff,
CRYSTAL LAKE PARK DISTRICT
453 Coventry Green
Crystal Lake, Illinois
(815) 459-8100

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT,)
an Illinois municipal corporation,)
Plaintiff,)
vs.)
ANTHONY C. BUONAURO, et al.,)
Defendants.)

No. 95 CH 22

FILED

DEC 12 1996

Shirley A. Coffitt
CIRCUIT CLERK

ORDER

THIS CAUSE coming on to be heard on November 14, 1996, on all pending motions, due notice having been given, the court having jurisdiction of the parties, and being fully advised in the premises:

1. The court finds Defendant Buonauro's "Motion to Disqualify" attorneys John Cowlin and Cowlin, Curran & Coppedge as attorneys for Crystal Lake Park District is moot because of the withdrawal of said attorneys on April 1, 1996. Therefore, the Motion is denied.
2. That with respect to Defendant Buonauro's "Motion to Restrain Former Counsel for Plaintiff from Communicating With or Assisting in Any Manner or Delivering Any Documents to Incoming Counsel", the court finds that the proper party to raise this issue is the City of Crystal Lake. The Court further finds that there has been no showing of a specific breach of confidentiality. Nonetheless, the court orders that John Cowlin and Cowlin, Curran & Coppedge are precluded from directly participating in these proceedings in either the preparation for or the trial of this matter for the Crystal Lake Park District. The balance of the request in said Motion is denied. Therefore there is no bar on the delivery of documents or communications between old and new counsels for Plaintiff, in the absence of a showing of a specific breach of confidentiality.
3. As to Defendant Buonauro's "Motion for Declaratory Judgment Order", the court finds the law does not recognize such a Motion. Therefore, the Motion is stricken without prejudice to replead the matter in an alternative pleading.
4. As to Defendant Buonauro's "Motion to Dismiss or to Add Necessary Parties", which was adopted by Defendants Tiesenga Family Real Estate Limited Partnership and Harris Trust and Savings Bank, as Trustee UTA No. 30957, the court finds that the title to the lake should be quieted as to all contiguous land owners as a part of this litigation. It is therefore ordered that the Motion to add parties is granted insofar as the Crystal Lake Park District shall amend its Complaint so that there are included, as defendants, all owners of lakeside lots and all owners of land contiguous to the property which is the subject matter of this litigation. This will include the so called "Velde Plaintiffs", as well as owners of the

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excluded parcels referenced in Plaintiff's Complaint. While it is necessary to join property owners associations, which associations own lakeside lots, it is not necessary to join individual members of any property owners associations by reason of the fact the associations own lakeside lots. The Motion for Summary Judgment attached as an exhibit to Plaintiff's Response is stricken without prejudice to repleading it.

5. Defendant Tiesenga Family Real Estate Partnership's "Motion to Dismiss Complaint" pursuant to Rule 103(b), which Motion was adopted by Buonauro defendants, is denied. Defendants Tiesenga Family Real Estate Partnership and Harris Trust and Savings Bank, as Trustee, UTA No. 30957 are found to have generally appeared.

6. As to Plaintiff's Motion to Default certain defendants, the court finds that the Defendants listed on Exhibit "A" to this order have been duly served and failed to answer within the time required and therefore, it is ordered that said parties defendant be and the same are hereby held in default. No judgment is entered at this time.

7. The court finds that all motions pending as of the date of this Order have been heard and ruled upon. Any such pending motion not so heard and ruled upon is deemed, and it is hereby ordered, denied.

8. All those currently named defendants not declared to be in default shall answer or otherwise plead on or before January 13, 1997 if they have not already done so.

9. A status hearing is scheduled without further notice in Room 107 of the Lake County Courthouse at 1:30 p.m., February 14, 1997.

Dated: November 14, 1996 nunc pro tunc

ENTER:



Judge

**CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.**

Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-8440

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AFFIRMATIVE DEFENSES

NOW COME the Certain Defendants herein and as and for Affirmative Defenses to the Complaint filed herein state as follows:

I.

**THE DEED RECORDED JULY 6, 1970, UPON WHICH THE CRYSTAL LAKE
PARK DISTRICT BASES ITS CLAIM TO THE SUBJECT LANDS IN QUESTION
HEREIN IS INVALID AND VOID BECAUSE OF FRAUD**

1. That on July 6, 1970 a Quit Claim Deed dated June 26, 1970 was recorded in the Office of the Recorder of McHenry County, Illinois stating that the Grantor was the VULCAN MATERIALS COMPANY and the Grantee the CRYSTAL LAKE PARK DISTRICT.

2. That the legal description contained in said deed read as follows:

That part of the Northwest Quarter of Section 1, of the Northeast Quarter of Section 1, and of the Southeast Quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest Quarter of Section 6, of the Northwest Quarter of Section 6, of the Northeast Quarter of Section 6, and of the Southeast Quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal meridian, which is covered by the waters of said lake.

which said property constitutes part of the lakebed of Crystal Lake in McHenry County, Illinois.

3. That Certain Defendants are informed and believe that in 1969 and 1970 the CRYSTAL LAKE PARK DISTRICT through its agents represented to certain governmental tax agencies in the Township of Grafton in the County of McHenry, State of Illinois that taxes previously assessed and existing upon said property amounting to sums of thousands of dollars for many years prior to the year 1970, during which time the property was in fact owned by private entities, specifically, to-wit: VULCAN MATERIALS COMPANY and its predecessor corporations, should be abated as said property was as of June 26, 1970 to become the property of the CRYSTAL LAKE PARK DISTRICT, a public entity exempt from taxation.

4. That there existed at that time and place in 1970 no legal or valid grounds for abatement of the tax specified in the next-preceding paragraph of this Motion.

5. That the consideration for said Quit Claim Deed was the securing of the abatement of certain real estate taxes due to the Township of Grafton, County of McHenry, State of Illinois, upon said property for the years of 1968 and 1969 and many previous years.

6. That Certain Defendants are informed and believe based upon representations made to Stanley H. Cornue then Assessor for Grafton Township of McHenry County, Illinois, by the agents of the CRYSTAL LAKE PARK DISTRICT, in the years 1969 and 1970, said Stanley H. Cornue changed the assessments previously and legitimately made

upon said land while in private ownership as hereinbefore described, to the figure of zero, a palpable falsehood and abated said taxes illegally, thus depriving the citizens of Grafton Township and the County of McHenry of their just tax monies.

7. That at the time of the representations made to Stanley H. Cornue, as stated above, the agents of the CRYSTAL LAKE PARK DISTRICT making said representations had to know them to be false in that there were no legal grounds to abate said taxes.

8. That during the years 1968 and 1969 and for many years prior thereto much of the land which was the subject matter of the deed in question herein was purportedly owned by a private enterprise, VULCAN MATERIALS COMPANY, Grantor in the deed in question, and its predecessors.

9. That as of 1970, certain real estate taxes for the years 1897, 1911, 1912, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969 and 1970, a total of thirty-eight (38) years, had not been paid upon said property allegedly owned by CONSUMERS COMPANY and KNICKERBOCKER ICE COMPANY, predecessors of VULCAN MATERIALS COMPANY, which constituted a large segment of the property purportedly conveyed by said deed.

10. That Certain Defendants are informed and believe based upon the representations made by the agents of the CRYSTAL LAKE PARK DISTRICT to the Assessor of Grafton Township in the years 1969 and 1970, the past taxes for 1968 and 1969 upon said property were abated, and in consideration therefore VULCAN MATERIALS COMPANY, having been relieved of the burden of paying said taxes, delivered unto the CRYSTAL LAKE PARK DISTRICT its Quit Claim Deed to the property concerned herein the premises.

11. That the conveyance of said deed under the circumstances herein described in the premises acted to the detriment of all of the citizens of McHenry County including those citizens who own land abutting upon Crystal Lake who constitute the Defendants or their predecessors in title to said lands abutting upon said Crystal Lake and that said citizens were deprived in that the benefit of the tax monies legitimately due and owing from VULCAN MATERIALS COMPANY unto Grafton Township and the County of McHenry and all of its citizens therein contained and that, in effect, tax monies owing to the citizens of Grafton Township and McHenry County including the Defendants herein and their predecessors in title were fraudulently used to procure the deed in question herein allegedly and purportedly conveying said certain real property unto the CRYSTAL LAKE PARK DISTRICT by the aforestated actions of the CRYSTAL LAKE PARK DISTRICT and its agents, and the interests of said land owners abutting upon Crystal Lake and their claims of and rights in title to the fee and use of said lake placed in jeopardy by said aforestated acts and conduct on the part of the agents and representatives of the CRYSTAL LAKE PARK DISTRICT.

12. That said taxes were abated by the McHenry County Board of Review on the basis that the property in question was owned by a public entity, to-wit: the CRYSTAL LAKE PARK DISTRICT, when in fact at the time the taxes were incurred and were due and owing and prior to the purported transfer on June 26, 1970 to the CRYSTAL LAKE PARK DISTRICT, said lands were apparently owned at all times by a private enterprise, VULCAN MATERIALS COMPANY, and its predecessors which were duty bound to pay said real estate taxes on said lands to the Township of Grafton and the County of McHenry.

13. That Certain Defendants are informed and believe said taxes were abated at the instance of the CRYSTAL LAKE PARK DISTRICT and its agents at the request of VULCAN MATERIALS COMPANY, as evidenced by Exhibits "1" and "2" to this Motion attached hereto and incorporated for all purposes as if recited verbatim herein.

14. That the VULCAN MATERIALS COMPANY, through its agents and representatives, discussed with the CRYSTAL LAKE PARK DISTRICT and its agents the securing of the abatement of property taxes legitimately due and owing to the taxpayers of McHenry County in return for giving a Quit Claim Deed to said real property which is the subject matter of this action, to the CRYSTAL LAKE PARK DISTRICT well knowing that the consideration for said deed would be abatement of certain legitimate tax monies owing to the citizens of Grafton Township and McHenry County and would be flowing from that source rather than from the CRYSTAL LAKE PARK DISTRICT which would be the sole beneficiary of said deed.

15. That it was illegal, improper and fraudulent to abate said taxes in that said monies were owed to, and the property of, the Township of Grafton and County of McHenry and its citizens and said monies therefore were used as the consideration for the granting of the aforestated deed from VULCAN MATERIALS COMPANY to the CRYSTAL LAKE PARK DISTRICT which meant that general real estate taxes owing to the Township of Grafton and County of McHenry were improperly used as the consideration for VULCAN MATERIAL COMPANY deeding its interest in the real estate involved herein solely to and for the benefit of the CRYSTAL LAKE PARK DISTRICT.

16. That the acts hereinbefore described in the premises constitute a fraud upon the citizens of the Township of Grafton and the County of McHenry in that the citizens of said Township and County were deprived of said tax monies and, therefore, paid the consideration for the transfer of land to and for the benefit of the CRYSTAL LAKE PARK DISTRICT, an improper, illegal and fraudulent act based upon misrepresentation as to amount of said taxes to the McHenry County Board of Review.

17. That, therefore, the CRYSTAL LAKE PARK DISTRICT paid no consideration whatsoever for the deed to them, recorded July 6, 1970, upon which they base their claim of ownership herein, and said deed must fail for a lack of legal consideration.

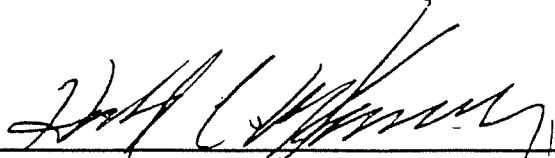
18. That the Defendants herein this suit, as both taxpayers in Grafton Township and McHenry County and integral victims of the fraud stated herein the premises,

have standing to seek cancellation as a declaration of invalidity of the deed herein in question both as taxpayers and as persons who would be damaged in their property rights in the event said deed is not rescinded, cancelled and/or declared void and a nullity.

WHEREFORE, Certain Defendants pray herein that the deed dated June 26, 1970 and recorded July 6, 1970 purporting to transfer certain property from VULCAN MATERIALS COMPANY to the CRYSTAL LAKE PARK DISTRICT be declared to be null and void and to have no effect as to the transfer of any property described therein by virtue of having been procured by fraud on the part of the Plaintiff and its agents herein, and to hold that said deed is a nullity and of no legal effect, and

Tax costs of this matter unto the Plaintiff, and

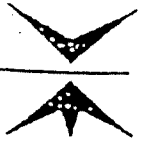
For such other and further relief as this Court shall deem just and proper.


HAROLD C. McKENNEY,
of CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.,
Attorneys for Certain Defendants

HAROLD C. McKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832
mpoa\95ch22\answer

A-80

Vulcan Materials Company



TO: Mr. J. O. Screven

FROM: Mr. C. C. Addams

DATE: May 15, 1970

SUBJECT: Agenda Item for Board of Directors Meeting

This Division requests approval of the Board of Directors to donate approximately 194 acres of Crystal Lake to the Crystal Lake Park District. This property is all in the lake itself, includes no shore line. Title is vested in Vulcan and the attachments provide further history and description.

The lake is presently used for boating and other aquatic activities by residents of the area and this use constitutes some substantial liability exposure for this Company. We have had an appraisal made and the amount indicated is \$194,240. The general implications of this transaction have been discussed with Mr. Van Pelt.

As indicated in the enclosure there is some delinquency of taxes. We will be ^{REQUIRED} requested to make the payment of \$1,349.33 which has previously been made by the Bathricks. ~~partly~~ We will endeavor to have the Park District seek abatement of the \$5,153.41 owing on the Grafton Township 70 acre parcel.

If you have any question, please call me.

CCA/mr

C. C. Addams

Encls.

cc: Mr. F. M. Wells
Mr. G. P. Bergeron

EXHIBIT "1"

A-81

Vulcan Materials Company

7-22-68



TO: Mr. W. J. Shaw
FROM: W. W. Tubbs and B. Wells
SUBJECT: Crystal Lake - Lake

WJE advised CCM, well at 11:30
~~that~~ VMC does not want to
involve present Crystal Lake property
in consideration with 3
DATE: April 10, 1968
Crystal Lake - Present owners -
O. Johnson and Dale J. Wells

Through title search and review of tax records of McHenry County, Illinois, it appears that Vulcan Materials Company owns 161.64 acres of the Crystal Lake - Lake which in total is approximately 181.64 acres. 91.64 acres of the total acreage is valued for tax purposes at \$900 total and the annual tax thereon is \$36; 70 acres in Grafton Township is valued at \$3,760 and the annual tax thereon is \$153. Taxes are delinquent for quite a number of years and at this writing we do not know the extent thereof. We are informed by the McHenry County Tax Assessor's Office that annually this lake area is placed for tax sale but to the point of this writing such lake area has not been purchased for delinquent taxes.

We are informed by the McHenry County Title Company that it has given title insurance for all the shoreline property and, therefore, it appears that Vulcan Materials Company owns in the lake area only.

We understand that extensive use is made by the property owners and by the general public in terms of swimming, boating, water skiing and other such water activities. We also understand that the lake is being polluted. There is only occasional policing of the lake by the State of Illinois. From these facts, it appears that Vulcan Materials Company's liability could be quite extensive.

As you know, the Crystal Lake Park District would like to have control of this lake in order that it might properly supervise the use of the lake. Also, as you know, Buddy Wells has been working with the Crystal Lake Park District in an effort to get Three Oaks Road at our Crystal Lake operation abandoned to provide additional mineral reserves available to Vulcan at the Crystal Lake operation in exchange for which Vulcan would donate its ownership in the lake to the Crystal Lake Park District. As we all know, this negotiation could span quite a period of time and some decision must be reached with respect to the lake to free Vulcan as much as possible from any liability with respect to the use of the lake. To this end, therefore, we recommend that immediately a lease agreement be entered into with the Crystal Lake Park District leasing Vulcan's interest in the lake to the Crystal Lake Park District at a rental rate equal to the annual taxes on the lake which approximate \$190 annually and as a condition to the lease we recommend that the Crystal Lake Park District be required to pay the back taxes or get such taxes waived by working with the McHenry County taxing authority. We also recommend, of course, that Crystal Lake Park District hold Vulcan harmless from liability and provide Vulcan with the necessary insurance certificates to indicate its financial ability to support a hold harmless agreement.

By copy of this letter to M. G. Jackson I am asking him to check to ascertain that we are covered for the risk involved in the facts herein outlined.

Mr. Shaw

-2-

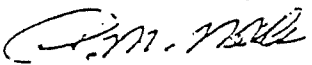
April 10, 1968

Vulcan has ownership in this lake by succession from Knickerbocker Ice Company which presently is shown as the record owner. The last title date shown of record is 1903, the date of purchase by Knickerbocker Ice Company.

Of course, the Crystal Lake Park District will readily recognize that it could buy the lake area by simply paying the delinquent taxes. In such event, Vulcan Materials Company would have a period of time within which to redeem such lake area if it chose to do so. Pending a decision on disposition of the Crystal Lake - Lake, we can instruct our tax lawyer, Mr. John Bolton, to trace the tax sales transactions in this area to determine whether or not the lake area is purchased for delinquent taxes in order that we may make the necessary judgment as to whether or not we should redeem. Assuming we are successful in getting the Crystal Lake Park District to have Three Oaks Road abandoned and, assuming for services rendered, we determine to donate to the Crystal Lake Park District our interest in the Crystal Lake - Lake, we recommend that we attempt to convey our interest in such lake by a quit claim deed which would absolve Vulcan from making any statement as to its exact ownership in the lake.

F. Wells


W. W. Tubbs


WWT/VMc

cc: Mr. M. G. Jackson
Mr. C. C. Addams
Mr. B. Jagen

P. S. We also recommend that the lease with the Crystal Lake Park District be on an annual basis and that a provision be put in the lease with the Park District to use its best efforts in getting Three Oaks Road abandoned in consideration for our donating our interest in the Crystal Lake - Lake.

A-82

STATE OF ILLINOIS)
) SS.
COUNTY OF McHENRY)

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT, an)
Illinois municipal corporation,)
)
Plaintiff)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants)

FILED
JUN 12 1997

GEN. NO. 95 CH 22

Handwritten signature and notes

MOTION TO STRIKE
AFFIRMATIVE DEFENSE OF BUONAURO DEFENDANTS

NOW COMES the plaintiff, CRYSTAL LAKE PARK DISTRICT, by and through its attorneys, MORRISON & MORRISON, P.C. and FRANZ & KERRICK, and for its Motion to Strike the Affirmative Defense and pursuant to 735 ILCS 5/2-619.1 filed by the BUONAURO Defendants, states as follows:

2-615 MOTION

1. This portion of the Motion is brought pursuant to Section 2-615 of the Illinois Code of Civil Procedure.

2. Certain defendants, through their attorneys, Harold C. McKenney and CAMPION, CURRAN, RAUSCH, GUMMERSON & DUNLOP, P.C., have filed an Answer and have filed an Affirmative Defense in this matter. These defendants will hereafter be collectively referred to as "BUONAURO DEFENDANTS."

A-84

3. This Affirmative Defense alleges that certain conduct constitutes a fraud upon the citizens of the Township of Grafton and the County of McHenry in depriving the citizens of that Township and County of certain tax monies, and, therefore, claims the Deed from Vulcan to the CRYSTAL LAKE PARK DISTRICT was an improper, illegal and fraudulent act. (See paragraph 16 of Affirmative Defense)

4. The allegations of this Affirmative Defense are irrelevant and immaterial to the issues in this litigation.

5. This type of an Affirmative Defense is not proper in a suit to quiet title.

6. Whether or not the back taxes on the real estate in question were validly assessed on the subject property prior to the date the CRYSTAL LAKE PARK DISTRICT took title is simply irrelevant and immaterial.

7. The fact that taxes have been assessed against the subject property, and the amount of real estate taxes that were allegedly in arrears at the time of the conveyance from Vulcan Materials Company to the CRYSTAL LAKE PARK DISTRICT is irrelevant and immaterial.

8. There is no statutory prohibition which would prohibit the conveyance of title of the subject property by Vulcan Material Company to the CRYSTAL LAKE PARK DISTRICT, even though real estate taxes had been assessed, accrued and unpaid at the time of the conveyance.

9. There is no evidence that these real estate taxes had been abated, or that Vulcan Materials Company had received assurances they would not have to pay the unpaid real estate taxes prior to the conveyance to the CRYSTAL LAKE PARK DISTRICT.

10. Even if this fact were true, it is irrelevant and immaterial to the actual consideration of the Deed. The Deed is attached hereto and made a part hereof as Exhibit A, and recites in part as follows:

"Vulcan Materials Company, . . . , for the consideration of ONE DOLLAR, in hand paid, and pursuant to the authority given by the Board of Directors of said corporation conveys and quit claims unto the Crystal Lake Park District"

11. Deeds which recite consideration of Ten Dollars and other good and valuable considerations have held to be valid. *Hubbard v. Schumaker*, 82 Ill.App.3d 476, 402 N.E.2d 857 (2d Dist., 1980). It is well established the owner of property may sell it for very little, or give it away for nothing, and such conveyance will not be set aside solely on the grounds of inadequacy of consideration. *Stude v. Heinlein*, 414 Ill. 11, 101 N.E.2d 228 (1953).

12. Therefore, these BUONAURO DEFENDANTS cannot attack the sufficiency of this Deed on the grounds of a lack of consideration, and the allegations in the Affirmative Defense are simply irrelevant and immaterial to any issues surrounding the validity of this Deed.

2-619 MOTION

1. BUONAURO DEFENDANTS allege the past real estate taxes were abated by the Assessor of Grafton Township, and, as a result of the abatement of these taxes, and in consideration therefor, the Vulcan Materials Company conveyed the real estate to the CRYSTAL LAKE PARK DISTRICT. (See paragraph 10 of Affirmative Defense.)

2. These allegations are made on information and belief, but these BUONAURO DEFENDANTS are mistaken as to the facts.

3. The Deed, a copy of which is attached hereto as Exhibit A., was dated on June 26, 1970, and recorded on July 6, 1970.

4. The Supervisor of Assessments made a recommendation that the assessments on these properties be abated and the Board of Review of McHenry County agreed with this recommendation.

5. The Supervisor of Assessments did not make his recommendation until October 29, 1970, and, on that date, or some date thereafter, the Board of Review of McHenry County approved the recommendation of the Supervisor of Assessments. A copy of the documents relating to the abatement of assessments are attached hereto and made a part hereof as Exhibits B and C.

6. Therefore, there is no evidence to show the conveyance of the Deed was conditioned upon, or made subject to, the abatement of these taxes. Rather, the unrefuted evidence is the abatement of these taxes took place after the Deed was delivered and recorded.

7. The BUONAURO DEFENDANTS complain the Supervisor of Assessments should not have recommended the abatement of these taxes. The BUONAURO DEFENDANTS claim the Board of Review of McHenry County should not have abated these taxes. They should direct their complaint to the Supervisor of Assessments and the Board of Review of McHenry County, and the validity or invalidity of the abatement of

these taxes has no bearing on whether the Deed from Vulcan Materials Company to the CRYSTAL LAKE PARK DISTRICT is valid. Vulcan Materials Company and the CRYSTAL LAKE PARK DISTRICT did not have any authority to abate these taxes and had no authority to agree these taxes should be abated.

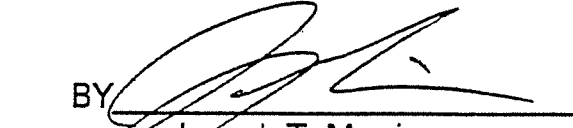
8. The BUONAURO DEFENDANTS have no standing to raise this issue in this proceeding.

9. The actions which the BUONAURO DEFENDANTS complain of in their Affirmative Defense took place in 1970. The BUONAURO DEFENDANTS are barred by the applicable statute of limitations and by Laches from raising this issue some twenty-seven (27) years later.

CONCLUSION

Plaintiff, CRYSTAL LAKE PARK DISTRICT, has filed a combined Motion under the authority of 735 ILCS 5/2-619.1. The Section 2-615 portion of this Motion states the allegations of the Affirmative Defense are irrelevant and immaterial to this action of quiet title, have failed to allege facts constituting a proper affirmative defense, and the allegations are otherwise inapplicable to this case. The Section 2-619 portion of the Motion raises the affirmative matters that the BUONAURO DEFENDANTS cannot complain of the abatement of taxes which occurred after the date of the Deed. The Section 2-619 Motion also raises the issue of whether these BUONAURO DEFENDANTS have standing to allege this alleged misconduct in this action filed by the CRYSTAL LAKE PARK DISTRICT, and also raises the issue that this claim is now time-barred.

Plaintiff, CRYSTAL LAKE PARK DISTRICT, prays that the Affirmative Defense filed by the BUONAURO DEFENDANTS be stricken with prejudice.

BY 
Joseph T. Morrison
Attorney for the Plaintiff,
Crystal Lake Park District

MORRISON & MORRISON, P.C.
32 N. West Street
Waukegan, IL 60085
847/244-2660
Attorney #6182078

A-89

526706

526706

THE E. COLE & CO. CHICAGO
LEGAL BLANKS
No. 8
(NEW MARCH 1937)
QUIT CLAIM DEED—Statutory
(ILLINOIS)
(CORPORATION TO CORPORATION)

Handwritten signature

FILED
July 6
1970 at 11:10
Clock
Harry C. Henderson
RECORDER

JUL 6 70

526706

Approved By Chicago Title and Trust Co.
Chicago Real Estate Board

(The Above Space For Recorder's Use Only)

THE GRANTOR Vulcan Materials, Company,
a corporation created and existing under and by virtue of the laws of the State of New Jersey and duly authorized to transact business in the State of Illinois, for the consideration of one ----- DOLLARS, in hand paid, and pursuant to authority given by the Board of Directors of said corporation CONVEYS and QUIT CLAIMS unto Crystal Lake Park District, a general park district organized and existing under and by virtue of the laws of the State of Illinois having its principal office in the County of McHenry and State of Illinois all interest in the following described Real Estate situated in the County of McHenry and State of Illinois, to wit:

That part of the Northwest quarter of Section 1, of the Northeast quarter of Section 1, and of the Southeast quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest quarter of Section 6, of the Northwest quarter of Section 6, of the Northeast quarter of Section 6, and of the Southeast quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake.

Grantee's Address:
300 Lake Shore Drive
Crystal Lake, Ill.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Executive Vice President, and attested by its Secretary, this 26th day of June, 1970.

Vulcan Materials Company
(NAME OF CORPORATION)
EXECUTIVE VICE PRESIDENT
SECRETARY

Alabama
State of ~~Illinois~~ County of Jefferson ss., I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that W. H. Blount, personally known to me to be the Exec. Vice President of the Vulcan Materials Company, a New Jersey corporation, and J. O. Screven, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Exec. Vice President and Secretary, they signed and delivered the said instrument as Exec. Vice President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

IMPRESS
NOTARIAL SEAL
HERE

Given under my hand and official seal, this 26th day of June, 1970.
Commission Expires January 31, 1973
Notary Public

NAME
ADDRESS
CITY AND STATE
EXHIBIT

ADDRESS OF PROPERTY

AFFIX "RIDERS" OR REVENUE STAMPS HERE

DOCUMENT NUMBER

A90

STATE OF ILLINOIS, }
COUNTY OF McHENRY, } SS:

Stanley H. Cornue, Supervisor of Assessments being first duly sworn, deposes and says that he is the duly elected, qualified and acting assessor of Grafton

Township, McHenry County, Illinois, and that in assessing the { Real Estate described as:
Item 9-1 ~~Proposed Swampy~~
(Ex pt CL Country Club Addn) Lt 1 NE $\frac{1}{4}$
& (Ex pt Prospect Point & Ex pt Resub Prospect Point) & Pt SE $\frac{1}{4}$ Sec 1-43-7 owned by Consumer's Co. % Crystal Lake Park District

70 acs in said Township, he made the assessment for the year 1969, at \$49 thru 1969

and that said assessment { was assessed in error other than an error in judgement and should have been made at \$ none

Affiant further states that: Bottom of lake property dedicated to Crystal Lake Park District.

He Therefore Recommends that said assessment be abated in the

{ full amount
amount of \$ Full

Stanley H. Cornue
Assessor.

Subscribed and sworn to before me this 29th day of Oct. A. D. 1970

W. A. Russell
Chairman, Board of Review

Henry M. Hill
Member, Board of Review

John J. Gillin
Member, Board of Review

County Clerk
Notary Public

EXHIBIT B

A-91

STATE OF ILLINOIS, }
COUNTY OF McHENRY, } SS:

Stanley H. Cornue, Supervisor of Assessments being first duly sworn, deposes and says that he is the duly elected, qualified and acting assessor of Grafton

Township, McHenry County, Illinois, and that in assessing the { Real Estate
Item 9-7 described as:
Pt Lot 1 & 2 NW $\frac{1}{4}$ Sec 1-43-7 ~~Real Estate Property~~
32.60 acs owned by R.A. Cepek
% Crystal Lake Park District

in said Township, he made the assessment for the year 1969, at \$ 1980

and that said assessment { was assessed in error other than an error in
judgement and should have been made at \$ none

Affiant further states that: Bottom of lake property dedicated to Crystal Lake Park District.

He Therefore Recommends that said assessment be abated in the

{ full amount
of \$ 1980

S. H. Cornue

Assessor.

Subscribed and sworn to before me this 29th day of Oct. A. D. 1970

W. H. [Signature]
Chairman, Board of Review

[Signature]
SPC Member, Board of Review

[Signature]
Member, Board of Review

County Clerk
Notary Public

EXHIBIT

A 92

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

CASE NO. 95 CH 22

FILED
JUL 3 1999
VERNON W. KAYS, JR.
McHENRY CTY. CIR. CL.

OBJECTION TO MOTION TO STRIKE AFFIRMATIVE DEFENSE
OF BUONAURO DEFENDANTS

NOW COME the Certain Defendants, ANTHONY C. BUONAURO, et al., by and through their attorneys, CAMPION, CURRAN, RAUSCH, GUMMERSON & DUNLOP, P.C. and HAROLD C. McKENNEY, and as and for Objection to the Motion to Strike the Affirmative Defense of the Buonauro Defendants herein, filed by the Plaintiff, state as follows:

2-615 MOTION

1. Certain Defendants BUONAURO make no answer to Paragraph 1 as it is merely a conclusion of the pleader.

2. Admits.

A-93

3. Admits.

4. Denies, and states that the allegations concerned are relevant and material to the issues herein.

5. Denies, and states that the affirmative defense herein is properly raised in this suit to quiet title.

6. Denies.

7. Denies.

8. Certain Defendants do not possess sufficient information to answer the allegation contained in Paragraph 8, and must, therefore, deny same and demand strict proof thereof, and further state the question of whether there is a statutory prohibition or not is not determinative of any issue herein. If the conveyance itself is fraudulently induced or executed, it is voidable for fraud regardless of any statutory prohibition. The fact the real estate taxes were assessed, accrued and unpaid at the time of the alleged conveyance has nothing to do with the issue of whether or not there was a fraudulent action with respect to said real estate taxes which benefitted VULCAN and the PARK DISTRICT illegally at the expense of the taxpayers of various governmental entities. VULCAN was not insolvent at the time of the transfer of the

quit claim deed and could have paid or been sued to pay said taxes. See Casey National Bank v. Roan, 282 Ill.App.3d 55 (1996).

9. Denies, and states that the question of evidence concerning the real estate taxes having been abated or VULCAN receiving assurance they would not have to pay the unpaid real estate taxes prior to the conveyance to the CRYSTAL LAKE PARK DISTRICT are issues of fact which are dependent upon evidence to be adduced at a hearing upon the merits of this action and it is premature and improper to comment upon the evidence in this cause in a 2-615 Motion to Strike.

10. Denies, and states that it is relevant and material to the actual consideration for the deed if there is evidence that the taxes had been abated and improper assurances made to the vendor herein.

11. Admits, but states that Paragraph 11 contains material which is totally irrelevant to the issues herein. If there is fraud associated with the giving of the deed, then it makes no difference whether other deeds have been held to be valid for any reason whatsoever including a recital of consideration.

The cases which the PARK DISTRICT relies upon, however, do not support the PARK DISTRICT'S contention. In both cases that it cites the Court carefully examined the circumstances surrounding the execution of the deed to determine if no non-

monetary consideration given was proper or fraudulent. In neither case was the nominal consideration recited in the deed the only consideration.

For example, in Hubbard v. Schumaker, 82 Ill.App.3d 476, 481, 402 N.E.2d 857 (1980), the Appellate Court found that "helping a beloved brother" and the "natural love and affection between near relatives" was enough consideration to support a deed. In this case, it seems unlikely that VULCAN gave away almost Two Hundred Thousand Dollars (\$200,000.00) in property based upon a "natural love and affection" between the PARK DISTRICT and VULCAN MATERIAL COMPANY.

Likewise, in Staude v. Heinlein, 414 Ill. 11, 101 N.E.2d 228 (1953), the Illinois Supreme Court also found that the deed at issue had not been procured by undue influence where the grantee had entered into an agreement for the care and support of the grantor which was executed at the same time as the deed from the grantor. That care and support constituted the consideration for the deed despite the deed's recitation of a nominal sum. Plaintiff, PARK DISTRICT, does not claim that its motives or VULCAN'S were nearly so altruistic and the underlying consideration for its deed is suspect. The PARK DISTRICT'S Motion in this respect involves a factual dispute and, as such, is inappropriate grounds for dismissal by perfunctory Motion.

12. Denies, and states that the Certain Defendants can attack the sufficiency of the deed on the grounds of lack of consideration and fraud and such issues are relevant and

material to the question of the validity of the deed. These are factual issues which must be decided on the basis of an evidentiary hearing on the merits and are inappropriate for a Motion to Strike as herein.

2-619 MOTION

1. Admits that part of what the Certain Defendants BUONAURO have alleged is stated in Paragraph 1 of the Motion to Strike.

2. Certain Defendants BUONAURO make no answer to Paragraph 2 on the grounds that said is merely a conclusion of the pleader and should await the taking the evidence as to the actual fact concerning said allegations and deny that the Certain Defendants are mistaken as to their facts.

3. Admits.

4. Certain Defendants BUONAURO do not possess information sufficient to answer the allegations contained in Paragraph 4 and, therefore, must deny same and demand strict proof thereof.

5. Denies that the action as described herein said Paragraph 5 of the Motion to Strike on the part of the Supervisor of Assessments is controlling on this point since factual events which occurred prior thereto which the Certain Defendants BUONAURO intend to offer into evidence to demonstrate that leading up to the date of October 29, 1970, will demonstrate the illegality and invalidity of the actions of the County Supervisor of Assessments as portrayed in the allegations of Paragraph 5 of the Motion to Strike.

In its Motion to Strike and Dismiss this affirmative defense, the PARK DISTRICT admits that the PARK DISTRICT had no authority to agree to abate VULCAN'S delinquent taxes. (PARK DISTRICT'S Motion to Strike at Page 5). Yet, the Plaintiff argues that any challenge to the validity of the deed upon which its entire claim is based is "irrelevant and immaterial to the issues in this litigation." This argument obviously belies the entire point of a quiet title action. By filing this lawsuit, the PARK DISTRICT'S Vulcan deed is at issue and any illegal acts surrounding its creation are subject to attack.

6. Denies, and states that the allegation contained in Paragraph 6 is a non-sequitur. There will be evidence to refute the allegations contained in Paragraph 6, and that it is premature and improper in a 2-619 Motion to attempt to resolve a disputed factual issue.

7. Denies that the Certain Defendants BUONAURO should direct their complaint to the Supervisor of Assessments and the Board of Review of McHenry County, and state that in an action of this nature wherein fraud is alleged, evidence should be taken as to any

facts that bear upon whether the deed was induced or executed by fraud and is valid or invalid, and states that these facts have a direct bearing on whether the deed in question is valid. If VULCAN MATERIALS COMPANY and the CRYSTAL LAKE PARK DISTRICT can be shown to have conspired to violate the law with or without the aid of certain public officials, fraud will attach herein.

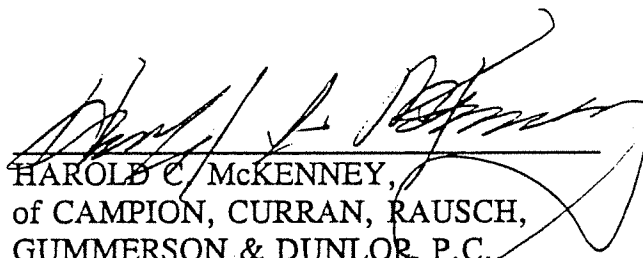
8. Denies, and states that the Certain Defendants BUONAURO have standing to raise this issue in this proceedings.

9. Laches do not apply in this instance and, as the Certain Defendants BUONAURO did not discover, and had no way of discovering fraud complained of herein until recently. No statute of limitation applies since any statutory limitation would run from the date of discovery of said alleged fraud. See Jordan, Inc. v. Leydig, Voit & Mayer, 158 Ill.2d 240 (1994); Bashton v. Ritko, 164 Ill.App.3d 37 (1987).

CONCLUSION

The Motion to Strike which is a combined Motion under 2-619.1 attempts to deprive the Certain Defendants BUONAURO of their day in Court to produce evidence on the issues framed herein. By repeatedly saying there is no evidence as to this or that, the Plaintiff is arrogantly presuming that the Defense does not have any such evidence. The Defense merely wishes the

opportunity to present evidence on the points raised by the issues in the pleadings herein. Issues as to whether or not the abatement concerned herein was fraudulently obtained, as to whether or not the consideration for the deed was fraudulent and as to whether Certain Defendants BUONAURO are issues of fact to be determined by the trier of fact after a hearing upon the merits of said issues. This claim is not barred by laches nor barred by the statute of limitations. This is a bill to quiet title action and the Certain Defendants BUONAURO have standing to sue as the action effects title to property involving a dispute as to ownership between Certain Defendants and Plaintiff herein.



HAROLD C. MCKENNEY,
of CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.,
Attorneys for Certain Defendants

HAROLD C. MCKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832
spoa\95ch22\mtsafdef.obj

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FILED

NOV 26 1997

VERNON W. KAYS, JR.
McHENRY CTY. CIR. CLK.

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

CASE NO. 95 CH 22

AMENDED AFFIRMATIVE DEFENSE OF CERTAIN DEFENDANTS
BUONAURO, ET AL.

1. On July 6, 1970, a Quit Claim Deed was recorded in the Office of the Recorder of McHenry County, Illinois purporting to transfer the land which is the subject matter of this lawsuit from VULCAN MATERIALS COMPANY (hereinafter referred to as "VULCAN") unto the CRYSTAL LAKE PARK DISTRICT (hereinafter referred to as "PARK DISTRICT"); said land being part of the lakebed of Crystal Lake in McHenry County, Illinois.

2. That said deed was and is legally void in that it was procured fraudulently, as the purported consideration for said deed was the illegal and wrongful abatement of taxes previously assessed and then due and owing upon said property unto the County of McHenry and Township of Grafton for 1969 and many previous years, and which inured to the benefit of all of the citizens of said County and Township. Said consideration being illegal and invalid and, therefore, constituting no consideration and impairing the rights of creditors, (in this instance

A-101

the taxpayers and citizens of Grafton Township and McHenry County). See Casey National Bank v. Roan, et al., 282 Ill.App.3d 55 (1996); Harris v. Aimco, Inc., 66 Ill.App.3d 60 (1978); First Security Bank of Glendale Heights v. Bawoll, 120 Ill.App.3d 787 (1983).

3. That there existed in 1970 no legal or valid grounds for abatement of the tax specified in the next-preceding paragraph of this Motion with respect to the subject real estate, but only specific legal grounds for abatement which did not apply to the subject property, and said purported abatement was not done in a legal manner. A copy of the pertinent 1939 Statute, Chapter 120, Section 643, with amendments, still in effect as of 1970, covering grounds for which abatement of real estate taxes were legally allowed in 1970, is attached hereto as Exhibit "1", for all purposes as if recited verbatim herein.

4. Taxes for each of thirty-eight (38) previous years upon said subject property were unpaid as of 1970 while the property was owned by a private enterprise, "VULCAN", and its predecessors.

5. That in concert, "VULCAN" and the "PARK DISTRICT" embarked upon a plan jointly to pass title to the subject property by Quit Claim Deed from "VULCAN" to "PARK DISTRICT" upon the condition that existing taxes upon the subject property were paid by "PARK DISTRICT" or abated at the instance of "PARK DISTRICT". See Exhibit "2" (last line of Paragraph 3), and Exhibit "3" (lines 13, 14, and 15 of third paragraph).

6. In furtherance of said plan JOHN L. COWLIN, then attorney for "PARK DISTRICT", contacted the Board of Review of McHenry County and STANLEY H. CORNUE, Supervisor of Assessments for Grafton Township, on August 19, 1970, September 29, 1970 and October 16, 1970, and requested an abatement of the taxes on the subject property for the years 1949 through 1969. Copy of said letters are herewith attached hereto as Exhibits "4", "5" and "6" for all purposes as if recited verbatim herein. That at the time of the writing of said letters ATTORNEY COWLIN well knew, or should have known, as an attorney and as a citizen charged with knowledge of the law, that the statute then in effect controlling matters of abatement of real estate taxes only permitted abatement of same in certain specific instances, none of which applied to "VULCAN" or the "PARK DISTRICT". See Exhibit "1".

7. That the "PARK DISTRICT" and "VULCAN" in the year 1970 caused assessments previously and legitimately made and taxes existing upon said property, while in private ownership ("VULCAN"), to be reduced to a zero figure, a falsehood, and to have said taxes abated improperly and illegally, and in an illegal manner by not following the statute for abatement procedures then in effect, thus depriving the citizens of Grafton Township and the County of McHenry of tax monies due and owing to them and converting said funds into an illegal consideration for the deed of June 26, 1970 from "VULCAN" to "PARK DISTRICT". See Exhibit "1".

8. That the reduction and abating of taxes upon the subject property, as hereinbefore stated, was caused by representations made by "PARK DISTRICT" to the Supervisor of

Assessments of Grafton Township and the Board of Review of McHenry County, which said representations were untrue and known to be untrue by those making them or, in the exercise of reasonable diligence should have been known by them to be untrue, at the time of their being made.

9. That in his said correspondence to the Board of Review and Supervisor of Assessments ATTORNEY COWLIN, acting on behalf of "PARK DISTRICT" and "VULCAN", did not inform said agencies of the fact that an appraisal had shown, approximately ninety (90) days previous to the inception of said correspondence, that the property in question was worth One Hundred Ninety-Five Thousand Dollars (\$195,000.00). A suppression of a material fact and, therefore, a misrepresentation by non-representation. In addition, it is several times stated in said correspondence that no income would be derived from said property when at all times income has been derived from said property by the charging of fees partially for the use of the waters on the lakebed of said lake. Further, ATTORNEY COWLIN did not inform the agencies concerned in his correspondence that the law, which he was charged with knowing, did not permit an abatement of taxes such as he was requesting, another misrepresentation by suppressing or withholding material and pertinent facts from the agencies from whom he was seeking abatement of the taxes in question. In addition, ATTORNEY COWLIN stated that "VULCAN" had "overlooked or failed to pay the total back tax due.", when he well knew that "VULCAN" had not overlooked the payment of said taxes, and rather than failing to pay same was trying to get them abated in concert with "PARK DISTRICT".

10. That at the time of the making of the representations concerned in the aforesaid letters of September 29, 1970 and October 16, 1970, "VULCAN", acting in concert with the "PARK DISTRICT" in their plan to improperly abate the back taxes on the subject property knew that the subject property in question was worth approximately One Hundred Ninety-Five Thousand Dollars (\$195,000.00) by virtue of an appraisal that it had had made on May 21, 1970, by one A. ERNEST SCHROEDER, a copy of which said appraisal is attached hereto as Exhibit "7" for all purposes as if recited verbatim herein.

11. That reasonably believing the representations made by ATTORNEY JOHN L. COWLIN on behalf of the "PARK DISTRICT" and "VULCAN", STANLEY H. CORNUE, then Supervisor of Assessments for Grafton Township, reduced the assessments on 102.60 acres of said lakebed property for the years 1949 through 1969 to zero, thereby abating completely the taxes for those years on said property. See Exhibits "8" and "9" attached hereto and incorporated herein for all purposes. Thus said wrongful abatement caused damage and injury to Defendants and their predecessor taxpayers and land owners within Grafton Township and the County of McHenry in that their property was taken from them and converted and used for the purposes of "PARK DISTRICT" and "VULCAN".

12. That said abatement was illegal because there existed in 1970 no statutory authority permitting said aforementioned abatement, which was fraudulently procured in that when making the representations for abatement of said taxes "PARK DISTRICT'S" agent was charged at said time with knowledge of the then statutes of the State of Illinois concerning

abatement and charged with knowledge from "VULCAN'S" appraisal that the property was valued at One Hundred Ninety-Five Thousand Dollars (\$195,000.00) and that a tax assessment of zero on said property was completely untrue and false. See Exhibits "1" and "4" attached hereto for all purposes.

13. That reasonably believing the representations made by "PARK DISTRICT'S" attorney, as aforesaid, and acting in reliance thereupon, STANLEY H. CORNUE, Supervisor of Assessments for Grafton Township, abated said taxes improperly and illegally by not acting in accordance with the statute then in force, and by stating that no taxes should have been assessed upon said property and that an error had been made in said assessment for the years in question, when in fact no error had been made, and taxes should have been assessed on One Hundred Ninety-Five Thousand Dollars (\$195,000.00) value; further stating that the property had been dedicated to the "PARK DISTRICT" when in fact there had been no dedication to the "PARK DISTRICT" at any time during the years for which taxes had been assessed and unpaid, and it is questionable as to whether there was ever any dedication of the subject property at any time to the "PARK DISTRICT". See Exhibits "8" and "9" attached hereto and incorporated herein for all purposes as if recited verbatim herein.

14. That the Supervisor of Assessments and the Board of Review of McHenry County were public officials in 1970, charged with the duty of acting on behalf of the citizens of McHenry County and the township in which the subject land reposed, and of protecting the assets, including uncollected taxes, belonging to the citizens and taxpayers of said entities.

15. That the taxes that were due and owing, and improperly and illegally abated as aforestated herein by the Supervisor of Assessments STANLEY H. CORNUE and the Board of Review, at the request of the "PARK DISTRICT" and "VULCAN", were rightfully monies due and owing to the citizens of McHenry County and Grafton Township.

16. That the Defendants herein are either taxpayers and property owners in said County and Township who were also taxpayers and property owners in said County and Township in the year 1970 or successor land owners and taxpayers to those who were taxpayers and land owners in said Township in 1970.

17. That, therefore, the Defendants herein, as well as other taxpayers and land owners in McHenry County and Grafton Township were and are the parties due and owing the aforestated tax monies wrongfully and illegally diverted and abated and wrongfully used as consideration for the purported acquisition of the subject property by "PARK DISTRICT" from "VULCAN". Therefore, no valid or legal consideration passed from the "PARK DISTRICT" to "VULCAN" for the deed dated June 26, 1970 purportedly transferring title to a large part of the lakebed of Crystal Lake to the "PARK DISTRICT" from "VULCAN", and the passing of said deed was fraudulent as to Defendants herein.

18. That Defendants herein have standing to object to said deed by virtue of the fact that they are land owners and taxpayers in McHenry County and Grafton Township and have been damaged in that they have been deprived of their rightful share of the tax monies due and

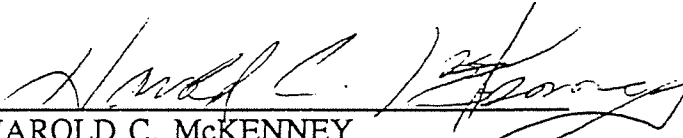
owing from "VULCAN" herein and have been and are required to replenish the funds represented by said lost tax revenue which was their property. Defendants have standing to sue on the basis of their proximity to the land in question and the fact that their interests, including diminution of property values, will be affected by the actions of the Plaintiff herein if it is held that the "PARK DISTRICT", rather than they, owns and can regulate the lake rather than Defendants. Standing to sue is not jurisdictional, but an affirmative defense, and must be raised as such by those seeking to contest standing to sue (in this case the Plaintiff). See Martini v. Netsch, 272 Ill.App.3d 693 (1995); Lager v. Rea, 344 Ill.App. 438 (1951); Greer v. Illinois Housing Development Authority, 122 Ill.2d 462 (1988); Contract Development Corp. v. Beck, 255 Ill.App.3d 660 (2nd District, 1994); County Collector of DuPage Co. v. Rubloff, 118 Ill.App.3d 139 (2nd District, 1983); Potter v. Ables, 242 Ill.App.3d 157 (1993); Evans v. Corporate Services, 207 Ill.App.3d 297 (2nd District, 1990).

19. That a void deed may be attacked at any time on grounds of fraud. See Evans v. Corporate Services, 207 Ill.App.3d 297 (2nd District, 1990) (dealing with void judgment); Brzica v. Lake Barrington, 268 Ill.App.3d 420 (1994), (2nd District, Lake County); R.W. Sawant & Co. v. Allied Programs Corp., 111 Ill.2d 304 (1986).

20. That the injury complained of herein to the Defendants occurred when the Plaintiff filed this lawsuit to quiet title and the facts surrounding the alleged passing and recording of the deed in question and the lack of valid consideration therefore, facts which for years had been hidden from and unknown to the Defendants and the general public, were discovered. See

Jordan, Inc. v. Leydig, et al., 158 Ill.2d 240 (1994); and Bashton v. Ritko, 164 Ill.App.3d 37 (1987). In Jordan, supra, the Supreme Court has held it is not enough for the plaintiff even to know that he was injured, but he must be aware that the injury was wrongfully caused.

21. That for the reasons advanced in the premises herein the deed dated June 26, 1970 and recorded July 6, 1970 is void in that it was procured fraudulently and without valid consideration and/or for illegal and improper consideration. See 59 I.R.S., Section 4 (1939) (repealed by Public Act 86-814, effective January 1, 1990) and Nowicki v. Citibank, et al., 202 B.R. 729 (United States Bankruptcy Court, Northern District Illinois, Eastern Division) (1996). (Headnote 4 and discussion thereon within case on Page 7 of copy supplied).


HAROLD C. MCKENNEY,
of CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.,
Attorneys for Certain Defendants

HAROLD C. MCKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832
spoa\95ch22\amndaaff.def

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, McHENRY COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT, an)
Illinois municipal corporation,)

Plaintiff,)

vs.)

GEN. NO. 95 CH 22

ANTHONY C. BUONAURO, et al.,)

Defendants,)

FILED
NOV 7 1997

[Signature]
CIRCUIT CLERK

**MOTION TO STRIKE
AMENDED AFFIRMATIVE DEFENSE
OF BUONAURO DEFENDANTS**

NOW COMES the Plaintiff, CRYSTAL LAKE PARK DISTRICT, by its attorneys Morrison & Morrison, P.C. and Franz & Kerrick, and pursuant to 735 ILCS 5/2-619, moves to strike and dismiss the Amended Affirmative Defense of the BUONAURO Defendants, and in support thereof, states as follows:

BACKGROUND

1. Certain Defendants in this matter are represented by attorney Harold McKenney, and these Defendants shall hereinafter be referred to as the BUONAURO Defendants.
2. The BUONAURO Defendants have attempted to raise the issue of "fraudulent procurement" of the 1970 deed from Vulcan to the CRYSTAL LAKE PARK DISTRICT at various times in this litigation.
3. Originally, the BUONAURO Defendants filed a pleading entitled "Motion to Cancel Deed."

A109

4. This Motion was superseded by the filing of a new Motion entitled "Motion for Declaratory Judgment Order."

5. Plaintiff filed a Motion to Strike, and this Court granted the Motion.

6. This Court entered an Order on December 12, 1996, finding that the law does not recognize a motion such as a Motion for Declaratory Judgment Order, but permitted the BUONAURO Defendants to attempt to replead the allegations contained in this Motion in another pleading.

7. The BUONAURO Defendants then filed an Affirmative Defense, once again alleging "fraudulent procurement" of this 1970 deed.

8. The CRYSTAL LAKE PARK DISTRICT filed a Motion to Strike this Affirmative Defense.

9. The BUONAURO Defendants filed a response to this Motion to Strike.

10. This Court conducted an extensive hearing on this matter on August 28, 1997. This Court indicated that it was inclined to grant the Motion to Strike, but at the request of Harold McKenney, allowed the BUONAURO Defendants to submit cases in support of their Affirmative Defense, and to file any amendments to this Affirmative Defense.

11. The BUONAURO Defendants have now filed an Amended Affirmative Defense, based upon the concept of "fraudulent procurement," complete with the citations to, and copies of case relied upon by them.

12. Despite the Amendment, the BUONAURO Defendants have still failed to address the issues raised in the Motion to Strike this Affirmative Defense, and the cases

cited by the BUONAURO Defendants are simply inapplicable to this case. By virtue of this Motion to Strike and Dismiss, the Plaintiff, CRYSTAL LAKE PARK DISTRICT, seeks to once and for all put an end to these allegations of "fraudulent procurement."

ARGUMENT

A.

The allegations in the Amended Affirmative Defense are irrelevant and immaterial.

1. A suit to quiet title is an equitable proceeding wherein the Plaintiff seeks to settle a dispute over the ownership of certain property.

2. An Affirmative Defense must be pleaded and proved by the Defendant. An Affirmative Defense in essence states that even if the Plaintiff's claim is true, there is new matter which defeats the rights of the Plaintiff. See *Goldman v. Walco Tool and Engineering Co.*, 243 Ill.App.3d 981, 614 N.E.2d 42 (1st Dist. 1993).

3. In this case, the BUONAURO Defendants have asserted an Affirmative Defense of "fraudulent procurement." This type of an Affirmative Defense is improper in a suit to quiet title, and the BUONAURO Defendants have cited no cases in which such a defense has been raised in a suit to quiet title.

4. The allegations of the Affirmative Defense in essence argue that even if the CRYSTAL LAKE PARK DISTRICT does have title to the real estate, it somehow procured that title through fraudulent conduct.

5. However, the allegations of fraudulent procurement do not amount to allegations required by law in order to set aside the deed on the basis of fraud.

6. Whether or not back taxes on the real estate in question were validly assessed on the subject property, and whether they were due and owing at the time of the deed to the Plaintiff, is irrelevant and immaterial.

7. The fact that real estate taxes had been assessed against the subject property, and those real estate taxes were allegedly in arrears at the time of the conveyance from the Vulcan Materials to the CRYSTAL LAKE PARK DISTRICT is irrelevant and immaterial. There is no statutory nor common law prohibition against the conveyance of real estate from Vulcan to the CRYSTAL LAKE PARK DISTRICT subject to real estate taxes.

8. The CRYSTAL LAKE PARK DISTRICT certainly had the statutory authority to acquire land by gift. 70 ILCS 1205/8-1(b)(1).

9. An owner such as Vulcan may sell the land for very little, or give it away for nothing, and such conveyance shall not be set aside solely on the ground of inadequacy of consideration. *Stude v. Heinlein*, 414 Ill.11, ¹¹⁰ 10 N.E.2d 228 (1953).

10. Furthermore, the deed, a copy of which is attached hereto as Exhibit "A," was dated on June 26, 1970 and recorded on July 6, 1970.

11. The actions taken by the Supervisor of Assessments and the Board of Review of McHenry County did not take place until after the deed was conveyed to the Plaintiff.

12. Therefore, there is no evidence to show the conveyance of the deed was conditioned upon, or made subject to, the abatement of these taxes. Rather, the unrefuted

evidence is that the abatement of these taxes took place after the deed was delivered and recorded.

B.

The BUONAURO Defendants have no standing to raise this defense.

1. The BUONAURO Defendants claim that they have been damaged because of a loss of taxes which were less than TEN THOUSAND DOLLARS (\$10,000).

2. However, these Defendants have received the benefit of real estate valued in 1970 at ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$195,000). The BUONAURO Defendants attached this appraisal to their Amended Affirmative Defense.

3. Therefore, as taxpayers, they may have lost under TEN THOUSAND DOLLARS (\$10,000) in taxes, but as residents of the CRYSTAL LAKE PARK DISTRICT, they now have the use of real estate worth ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$195,000). The BUONAURO Defendants suffered no damage as the result of any alleged "conspiracy," and therefore do not have standing to raise this Affirmative Defense in this matter.

4. Furthermore, the BUONAURO Defendants have alleged that the taxes were abated, not by Vulcan Materials, nor the by CRYSTAL LAKE PARK DISTRICT, but rather by the Supervisor of Assessments and the Board of Review of McHenry County. Any illegal or improper abatement of taxes was not accomplished by Vulcan Materials nor the CRYSTAL LAKE PARK DISTRICT. Rather, the abatement of taxes was accomplished by a recommendation made by the Supervisor of Assessments and ratified by the McHenry

County Board of Review after the CRYSTAL LAKE PARK DISTRICT had obtained the deed.

5. Under the facts and circumstances, the BUONAURO Defendants stand in far different shoes than the creditor in the cases cited the Defendants.

6. The cases cited by the Defendants involve a conveyance which was set aside as a fraud upon creditors. *Casey National Bank v. Roan*, 282 Ill.App.3d 55 (1996) involved a loan which had been made to the defendants by the plaintiff. The defendant defaulted, and prior to and during the lawsuit filed by the plaintiff, the defendants conveyed real estate for no consideration to their son and daughter. The Court held that such a conveyance was fraudulent, and set aside the conveyance.

7. In *Harris v. Aimco, Inc.*, 66 Ill.App.3d 60, 383 N.E.2d 631 (5th Dist. 1978), real estate had been conveyed to the children of Donald Baines. Donald Baines was the sole director and majority shareholder of Aimco, Inc., which owed money to the plaintiff. Since the corporation was heavily in debt, the Court held that the conveyance to the children would be set aside. *First Security Bank of Glendale Heights v. Baywol*, 120 Ill.App.3d 787, 458 N.E.2d 193 (2nd Dist. 1983), is also based upon an alleged fraudulent conveyance by the debtor to her children.

8. In this case, neither Vulcan Materials nor the CRYSTAL LAKE PARK DISTRICT owed any money directly to the BUONAURO Defendants. Therefore, the BUONAURO Defendants simply have no standing to raise this issue of "fraudulent procurement."

9. The other cited by the BUONAURO Defendants on Page 8 of their Affirmative Defense are simply inapplicable to the case at bar. These cases announce some general propositions of standing. However, none of these cases state that taxpayers have standing to assert that a deed had been procured on the grounds of fraud, some twenty-seven (27) years after the deed was conveyed and recorded. These cases stand for the proposition that a taxpayer may have standing to bring an action against a public body to enjoin that body from expending funds in violation of certain statutes. That is certainly not the case at bar. Other cases simply stand for the proposition that standing is an Affirmative Defense which must be raised, or it is waived. The Plaintiff is raising the issue of standing as affirmative matter pursuant to this Section 2-619 Motion to Dismiss.

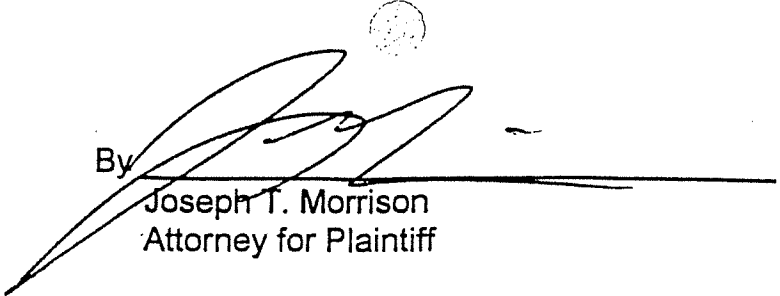
CONCLUSION

The allegations of "fraudulent procurement" are simply irrelevant and immaterial through the validity of the deed. There is no pleading, nor any showing, that the conveyance would not have taken place had the McHenry County Board of Review failed to abate the taxes after the Plaintiff acquired title. It is clear that the Plaintiff acquired title subject to those taxes. That does not affect the title which vested in the Plaintiff.

These Defendants simply have no standing to raise the issue of whether the taxes were validly abated or not. Furthermore, the Plaintiff and Vulcan Materials did not actually abate the taxes. The abatement of taxes was done by the McHenry County Board of Review, which is not a party to this proceeding.

The Amended Affirmative Defense of the BUONAURO Defendants should be stricken, and should finally be dismissed with prejudice.

By



Joseph T. Morrison
Attorney for Plaintiff

MORRISON & MORRISON, P.C.
32 N. West Street
Waukegan, IL 60085
847-244-2660
Attorney No. 6182078

526706

No. 821
(NEW MARCH 1937)

QUIT CLAIM DEED—Statutory
(INCORPORATION TO CORPORATION)

Approved By Chicago Title and Trust Co.
Chicago Real Estate Board

H. Hoffman
Algonquin

FILED FOR
JULY 6
1970
HARRY C. HENDERSON
RECORDER

JUL 6 70

526706

(The Above Space For Recorder's Use Only)

THE GRANTOR Vulcan Materials Company,

a corporation created and existing under and by virtue of the laws of the State of New Jersey and duly authorized to transact business in the State of Illinois, for the consideration of one ----- DOLLARS.
In hand paid.

and pursuant to authority given by the Board of Directors of said corporation CONVEYS and QUIT CLAIMS unto Crystal Lake Park District, a general

park district corporation organized and existing under and by virtue of the laws of the State of Illinois having its principal office in the County of McHenry and State of Illinois all interest in the following described Real Estate situated in the County of McHenry and State of Illinois, to wit:

That part of the Northwest quarter of Section 1, of the Northeast quarter of Section 1, and of the Southeast quarter of Section 1, all in Township 43 North, Range 7 East of the Third Principal Meridian, which is covered by the waters of the meandered lake commonly known as Crystal Lake, and that part of the Southwest quarter of Section 6, of the Northwest quarter of Section 6, of the Northeast quarter of Section 6, and of the Southeast quarter of Section 6, all in Township 43 North, Range 8 East of the Third Principal Meridian, which is covered by the waters of said lake.

Grantee's Address:
300 Lake Shore Drive
Crystal Lake, Ill.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Executive Vice President, and attested by its Secretary, this 26th day of June, 1970.

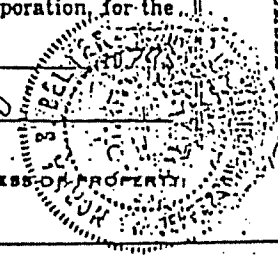
Vulcan Materials Company
(NAME OF CORPORATION)
BY [Signature] Executive Vice President
ATTEST: [Signature] SECRETARY

Alabama State of Illinois County of Jefferson ss., I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that W. H. Blount, personally known to me to be the Exec. Vice President of the Vulcan Materials

Company, a New Jersey corporation, and J. O. Screven, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Exec. Vice President and Secretary, they signed and delivered the said instrument as Exec. Vice President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of June, 1970.
Commission expires 19 _____

Wm B. Belts
NOTARY PUBLIC



AFFIX "RIDERS" OR REVENUE STAMPS HERE

DOCUMENT NUMBER

MAIL TO: NAME _____ ADDRESS _____ CITY AND _____

EXHIBIT

THE ABOVE ADDRESS IS FOR STATISTICAL PURPOSES ONLY AND IS NOT A PART OF

A717

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FILED

NOV 17 1997

VERNON W. KAYS, JR.
McHENRY CTY. CIR. CLK.

CRYSTAL LAKE PARK DISTRICT, an)
Illinois Municipal Corporation,)
)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

CASE NO. 95 CH 22

OBJECTION TO MOTION TO STRIKE AMENDED AFFIRMATIVE DEFENSE OF
CERTAIN DEFENDANTS BUONAURO, ET AL.

NOW COME the Certain Defendants, ANTHONY C. BUONAURO, et al., by their attorney, HAROLD C. McKENNEY, and as and for Objection to Plaintiff's Motion to Strike the Amended Affirmative Defense of BUONAURO Defendants herein, state as follows:

1. That the Certain Defendants BUONAURO herein have filed an Amended Affirmative Defense based upon the contention that the deed of June 26, 1970, upon which the PARK DISTRICT claim of title herein reposes is void because it was fraudulently procured.

2. The BUONAURO Defendants have now, in their Amended Affirmative Defense, addressed the issues raised in Plaintiff's Motion to Strike the original Affirmative Defense and cited numerous cases in support of their position.

A 718

3. In Paragraph 2 of their Argument, Plaintiff cites the case of Goldman v. Walco Tool and Engineering Co., 243 Ill.App.3d 981 (1993) for the proposition that an affirmative defense should state that even if the plaintiff's claim is true, there is new matter which defeats the right of the plaintiff. The Goldman case itself cites only one (1) case as authority for that statement which is Shute v. Chambers, 142 Ill.App.3d 948 (1986). The Shute case makes the statement repeated in Goldman:

"The facts constituting any affirmative defense must be plainly set forth in the answer or reply to a complaint, so as to give color to the opposing party's claim and assert a new matter by which the apparent right is defeated."

This is not the same as saying that "even if the plaintiff's claim is true", but in this instance it should make no difference since the facts constituting the affirmative defense have been clearly set forth in the pleadings herein and new matter, i.e.: the circumstances constituting fraud surrounding the passing of the deed in 1970; has been asserted which, if proven, would defeat the apparent title herein of the Plaintiff.

3. Next the Plaintiff asserts that the defense of "fraudulent procurement" as they term it is improper in a suit to quiet title. They cite no authority whatsoever for this bland and unfounded statement. Indeed, whether or not a particular defense has been used in a particular type of action before is not relevant to the issues herein. There are many instances in the law of "prima impressionis".

4. The Plaintiff again blandly asserts that the allegations of fraudulent procurement in the pleadings of Certain Defendants BUONAURO do not amount to allegations required by law in order to set aside the deed on the basis of fraud. Whereas, in fact, the defense has cited the cases of Casey National Bank v. Roan, 282 Ill.App.3d 55 (1996); Harris v. Aimco, Inc., 66 Ill.App.3d 60 (1978); and First Security Bank of Glendale Heights v. Bawoll, 120 Ill.App.3d 787 (1983) (2nd Dist.). See also Mills v. Susanka, 394 Ill. 439 (1946) and Effingham State Bank v. Blades, 139 Ill.App.3d 259 (1985). All of these cases demonstrate that the allegations contained in the Affirmative Defense are legally sufficient.

5. In First Security Bank of Glendale Heights v. Bawoll, the Second District held that the requirement of intent to defraud is immaterial and is presumed in cases of inadequate or no consideration. In the instant case the taxpayers of both the County and the township in question who are Defendants stood as creditors since money was due and owing to them by those who owed the taxes, i.e.: VULCAN MATERIALS COMPANY, at the time of the transfer.

6. The question of whether or not taxes were validly assessed, legally abated, and/or were due and owing at the time of the deed to the Plaintiff is quite relevant and material to the issues herein in view of the above cases.

7. The fact that there may be no statutory or common law prohibition against an act does not make that act valid or legal and whether a conveyance is void because of fraud

has nothing to do with statutory or common law prohibitions against certain conveyances. Nor does the fact that the CRYSTAL LAKE PARK DISTRICT had authority to acquire land by gift have anything to do with the issues in this case. It is the method of acquisition and the circumstances surrounding it that dictate the legality of the conveyance and determine the question of a fraudulent conveyance.

8. That an owner (VULCAN) can sell or give away land for little or nothing is not the issue in this cause of action. The issue is whether or not, considering the surrounding circumstances, a fraud was committed upon the taxpayers of the township and county in question by the collusion of VULCAN and the PARK DISTRICT in robbing the citizens of said township and county of their just right to, and share in, taxes then due and owing from VULCAN to said citizens.

9. If the deed in question was void because of fraud as its inception, then nothing which happened afterwards on the part of the Supervisor of Assessments and Board of Review of McHenry County has any legal effect. In this case it could not have a legal effect because the Supervisor of Assessments and the Board of Review did not act in accordance with the law.

10. At this stage of the pleadings there is no question of evidence concerning the conveyance of the deed being conditioned upon or made subject to abatement of taxes. Evidence does exist and will be induced in the hearing of this cause at the proper time. At this

time the case is in the pleading stage. One does not plead evidence. The fact of when an abatement took place has nothing to do with the facts surrounding the abatement immediately prior to and at the time of same, which caused the abatement.

11. A taxpayer has standing to bring suit challenging the legality of an Order constituting a misuse of public funds because the taxpayer owns the funds in question and the motive of the taxpayer is completely irrelevant to the issue of standing. The Certain Defendants have already cited Martini v. Netsch, 272 Ill.App.3d 693 (1995), on this point. See also Lager, et al. v. Rea, 344 Ill.App. 438 (1951); Greer v. Illinois Housing Development Authority, 122 Ill.2d 462 (1988); Contract Development Corporation v. Beck, 255 Ill.App.3d 660 (1994) (2nd Dist.); and numerous other cases cited by Certain Defendants previously to this Court. The reasoning of the Plaintiff in saying that the Defendants have received the benefit of real estate valued at One Hundred Ninety-Five Thousand Dollars (\$195,000.00) and only lost Ten Thousand Dollars (\$10,000.00) in taxes is convoluted, unjustified and merits the appellation *reducto ab absurdum*. The taxpayers got absolutely nothing. The PARK DISTRICT in effect stole their tax monies from them and now wants to steal their land from them. The title to the land went to the PARK DISTRICT not to the taxpayers and homeowners involved as Defendants herein. This is akin to the story of the older kids telling the younger kids as they are standing in front of the movie theater "give us your candy money and we'll go in and see the film and come out and tell you how good it is, afterwards". The Certain Defendants herein have been damaged and the PARK DISTRICT is trying to further damage them.

12. The allegations in the Affirmative Defense are that the taxes were abated by the connivance of VULCAN MATERIALS with the CRYSTAL LAKE PARK DISTRICT, through their agents, in getting the Supervisor of Assessments and the Board of Review to abate said taxes. For the Plaintiff to say that the abatement of taxes was accomplished by a recommendation made by the Supervisor of Assessments and ratified by the McHenry County Board of Review after the CRYSTAL LAKE PARK DISTRICT had obtained the deed is ludicrous. Such recommendation did not arise out of a vacuum and there is evidence that will be adduced to show that it was done at the instance of the agents of the PARK DISTRICT working in conjunction with agents of VULCAN. The Certain Defendants wish the opportunity to present this evidence.

13. The BUONAURO Defendants stand in the same shoes as the creditors in the cases cited by the Defendants. Whether one calls them taxpayers or anything else, they were actually people owed money by the person who deeded the land away for no consideration whatsoever to a third party. This is exactly what it comes down to.

VULCAN owed money to the county and township concerned. The people who constitute the county and township are the citizens of same. These included the Certain Defendants herein. These people stand in the same relationship to VULCAN as the creditors in the cases cited by the Certain Defendants herein on this issue and said cases are directly on point.

CONCLUSION

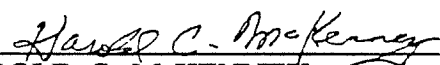
Certain Defendants BUONAURO stand in the same position as other creditors through their position as taxpayers at the time the fraudulent deed was passed on from VULCAN to the PARK DISTRICT. To hold any other view would be to defy the case law submitted by the Certain Defendants to the Court. In short, the Certain Defendants are asking for the opportunity to present the circumstances surrounding the conveyance of the deed in 1970 from VULCAN to the PARK DISTRICT. This is their right. The Court should hear the circumstances surrounding the passing of the deed in order to determine, as matter of evidence, not as a matter of pleading, those facts which demonstrate whether the deed in question was fraudulently induced, procured and delivered. This need not be proven by direct evidence but may be proved by circumstantial evidence surrounding the transaction and the burden is upon the debtor or person to whom the property was conveyed to dispel and show the absence of fraud in the conveyance. Intent is not an issue. See Harris v. Aimco, Inc., 66 Ill.App.3d 60. In addition, as to the issue of standing to sue on the part on the part of Certain Defendants, this must be raised as an affirmative defense by the person seeking to deny standing to the Certain Defendants, in this case, i.e.: the Plaintiff. See Noyola v. Board of Education, 227 Ill.App.3d 429 (1992). In fact, the Second District has held that the failure to raise such as an affirmative defense is a waiver of same. See Contract Development Corporation v. Beck, 255 Ill.App.3d 660 (1994). Furthermore, a void or voidable judgment or decree can be attacked at any time as should a fraudulently procured deed which is void or voidable. See Evans v. Corporate Services, 207 Ill.App.3d 297 (1990) (2nd Dist.).

Finally, as to the question of standing, it has been held that a diminution of property values, such as has been alleged herein will result from the acquisition by the PARK DISTRICT of certain rights presently held by the Certain Defendants herein with respect to their interests in the lake itself, is sufficient alone to constitute standing. See Greer v. Illinois Housing Development Authority, 122 Ill.2d 462, in which the Supreme Court of Illinois held that mere proximity of landowners to a development (translate "Crystal Lake") is sufficient to constitute a legally cognizable interest for the purpose of standing.

A Court must accept as true upon a Motion to Dismiss all well pleaded facts and reasonable inferences that may be drawn therefrom and no pleading should be dismissed unless it is apparent that no set of facts can be proven under the pleadings which would entitle the non-movant to relief. See Illinois Graphics Co. v. Nickum, 159 Ill.2d 469 (1994).

The Amended Affirmative Defense of the BUONAURO Defendants should be allowed to stand and the Motion to Dismiss same should be denied.

Respectfully submitted,



HAROLD C. MCKENNEY,
Attorney for Certain Defendants

HAROLD C. MCKENNEY
CAMPION, CURRAN, RAUSCH,
GUMMERSON & DUNLOP, P.C.
Attorneys for Certain Defendants
8600 Route 14, Suite 201
Crystal Lake, IL 60012
815/459-0832

spoa\95ch22\objaaf.mta

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

CRYSTAL LAKE PARK DISTRICT)
)
Plaintiff,)
)
vs.)
)
ANTHONY C. BUONAURO, et al.,)
)
Defendants.)

MCHENRY COUNTY DOCKET

No. 95-CH-22

FILED
NOV 27 1997

ORDER

This cause coming on to be heard on Plaintiff's Section 2-619 Motion to Strike and Dismiss Defendants, Buonauro's and Tiesenga's Affirmative Defenses and Amended Affirmative Defenses which claim fraudulent procurement of the 1970 deed from Vulcan Materials Co. to Crystal Lake Park District make the deed voidable;

The court having considered the pleadings, records, briefs, and arguments of the parties and being advised in the premises; due notice having been given; the court having jurisdiction of the parties and subject matter; this being the fourth time in this litigation that these defendants have raised this defense;

The Motion to Strike and Dismiss the Buonauro and Tiesenga Affirmative Defenses and Amended Affirmative Defenses ~~based upon~~ ~~fraudulent deed from Vulcan Materials Co.~~ is granted with prejudice. *based upon fraudulent conveyance*

Dated at Waukegan, Illinois

November 25, 1997

Enter: EMILIO B. SANI

Judge

Prepared by:

FRANZ & KERRICK
453 Coventry Green
Crystal Lake, Illinois 60014

A-126

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, McHENRY COUNTY, ILLINOIS

FILED
FEB 18 1999

CRYSTAL LAKE PARK DISTRICT, an)
Illinois municipal corporation,)

Plaintiff,)

vs.)

GEN. NO. 95 CH 22

ANTHONY C. BUONAURO, et al.,)

Defendants.)

Sally A. Loeffelt
CIRCUIT CLERK

JUDGMENT ORDER

This cause coming on to be heard for trial on the Complaint and Amendment to Complaint of the plaintiff, CRYSTAL LAKE PARK DISTRICT, to quiet title to the bed of the body of water commonly known as Crystal Lake;

AND the plaintiff appearing by JOSEPH T. MORRISON of MORRISON & MORRISON, P.C., and by FRANZ & KERRICK; JAMES CAMPION of CAMPION, CURRAN, RAUSCH, GUMMERSON & DUNLOP, P.C., having filed appearances for numerous defendants in this matter as set forth in the appearances filed by said firm (hereinafter commonly referred to as the Buonauro Defendants); and other defendants having appeared as set forth on Exhibit A attached hereto and made a part hereof;

AND it appearing to the Court that pursuant to previous Orders in this case, the plaintiff has named as parties defendant the owners of all of the lots or lands which abut or adjoin Crystal Lake, as required by previous Orders of this Court;

AND it appearing to the Court that the defendants to this proceeding have been served with process as provided by statute, some of the defendants having entered their appearances, other defendants having been defaulted, and that the Court has jurisdiction of the subject matter of this proceeding, and of all parties and defendants hereto;

AND it appearing to the Court that due service of process by publication was had upon party defendants "UNKNOWN OWNERS", and the Court determining that no further defendants having appeared in this matter; and the Court having ordered that this matter be called for trial on January 11, 1999, and the Court determining that all parties who have filed appearances in this matter have been duly notified of this trial date;

AND it appearing to the Court that the plaintiff has entered into a Stipulation with defendants Boback Family Crystal Lake Trust, North Crystal Lake Park Beach Improvement Association, Tiesenga Family Real Estate Partnership, Harris Trust & Savings Bank as Trustee under Trust Agreement No. 30957, and Ardythe R. N. Tiesenga, and pursuant to the Stipulations and Orders of Dismissal entered in this matter, these defendants have been dismissed as parties to this proceeding;

AND the Court having conducted the trial of this cause, having considered the evidence adduced at trial, including the testimony of the witnesses, the exhibits admitted into evidence, the arguments of counsel, and the post-trial briefs filed by counsel;

And the Court otherwise being fully advised in the premises,

IT IS THEREFORE ORDERED THAT:

1. This Court made certain findings of fact and rulings on the record on February 9, 1999, and those findings of fact and rulings are hereby incorporated into and made a part of this Order.

2. Judgment is entered in favor of the plaintiff, CRYSTAL LAKE PARK DISTRICT, and against the defendants on the Complaint and Amendment to the Complaint filed by the plaintiff in this matter, and that legal title to certain real estate described as that portion of the bed of the body of water of Crystal Lake as shown in light blue on plaintiff's

Exhibit No.1 depicted generally on Exhibit B attached hereto and legally described on Exhibit C, attached hereto and made a part hereof, (hereinafter "Subject Property") is found and adjudged to be in the Crystal Lake Park District, free and clear of any title claims of the defendants, and said title is quieted, established and confirmed in the plaintiff.

3. Nothing in this Order shall be interpreted to establish title in favor of the plaintiff to block 45 in R. A. Cepek's Crystal Vista, according to the plat recorded February 11, 1927 in Book 6 of Plats, Pages 18 and 19, in McHenry County, Illinois, including but not limited to the channel lying within said block 45.

4. UNKNOWN OWNERS are defaulted for failure to appear in this matter.

5. The defendants and UNKNOWN OWNERS, and each and all of them, and any and all persons claiming or having any interest by, through or under them, and their successors and assigns, are barred and precluded from asserting or claiming any legal title interest in and to that portion of the bed of the body of water of Crystal Lake depicted generally on Exhibit B and legally described on Exhibit C which is adverse to the plaintiff or its title.

6. This Judgment is binding on the defendants as set forth in Exhibit D as well as the successors and assigns of those defendants.

7. Judgment is entered in favor of the plaintiff, and against the Buonauro Defendants, on the affirmative defense of laches raised by the Buonauro Defendants.

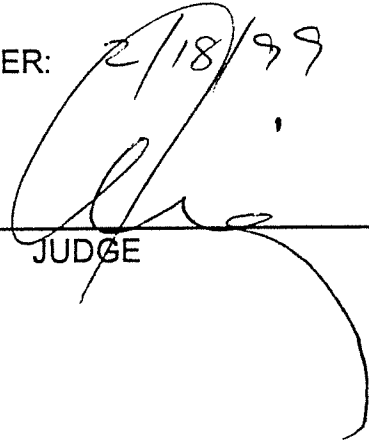
8. Judgment is entered in favor of the plaintiff, and against the Buonauro Defendants, on the issue of the so-called Hacklander tax deed as set forth in the Buonauro Defendants' Second Amended Affirmative Defense.

9. Judgment is hereby entered in favor of certain defendants/counter-plaintiffs and against the Crystal Lake Park District, plaintiff/counter-defendant, on the Counterclaim to quiet title filed on September 1, 1998. The Crystal Lake Park District has no legal title in and to that portion of the bed of the body of water of Crystal Lake lying at the north end of Crystal Lake between the north shore line of Crystal Lake along the southern boundary of the lots of Clow's Crystal Lake Park Subdivision, south to the south line of Lot No. 2, as that line is shown on the Plat of Subdivision of Clow's Crystal Lake Park, and which is legally described on Exhibit E, attached hereto and made a part hereof.

10. This Order is final, and there is no just reason to delay enforcement or appeal of this Order.

ENTER:

2/18/99



JUDGE

Prepared by:
Joseph T. Morrison
ARDC #6182078
MORRISON & MORRISON, P.C.
32 N. West Street
Waukegan, IL 60085
847-244-2660

Larry K. Johnson
JOHNSON, LEAHY &
MENGELING, LTD.
666 Russell Court, Suite 214
Woodstock, IL 60098
*Attorneys for Boback Family Crsytal
Lake Trust*

Kirby J. Schall, Jr.
1105 North Shore Drive
Crystal Lake, IL 60014

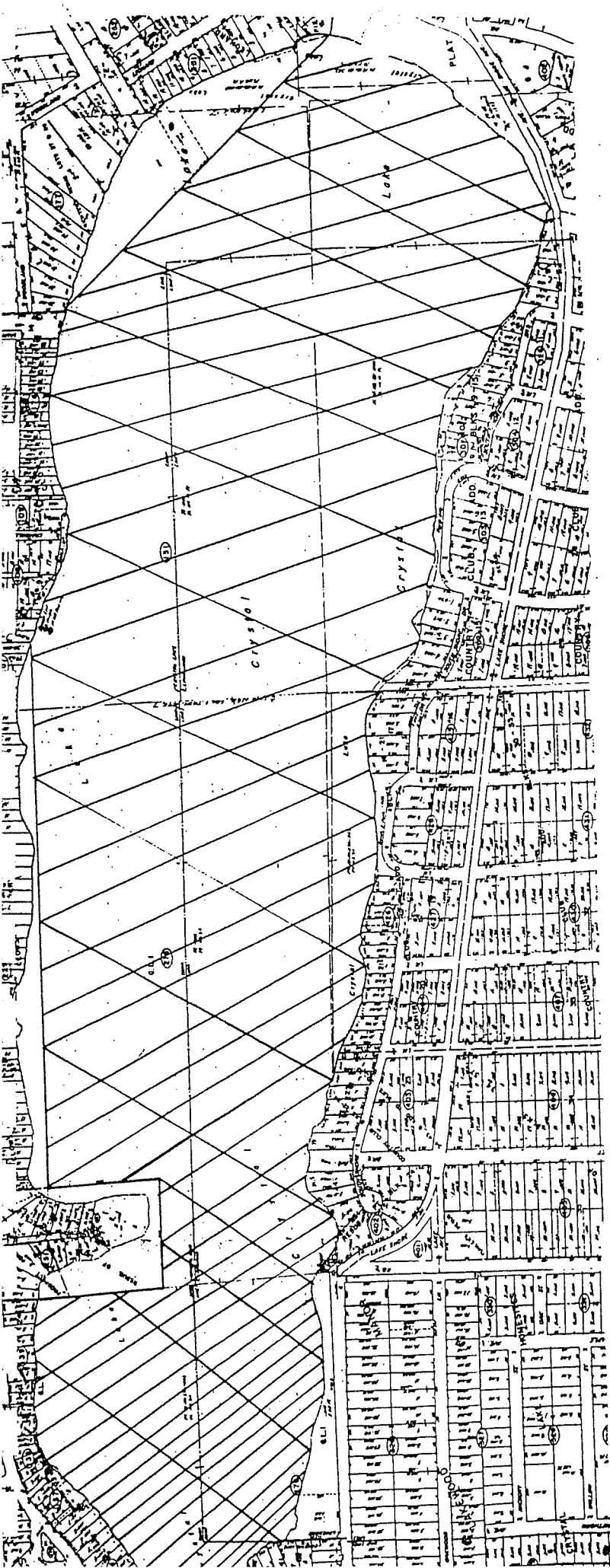
Glenda Scherf
1099 North Shore Drive
Crystal Lake, IL 60014

Carla P. Butler
1089 North Shore Drive
Crystal Lake, IL 60014

Patrick D. Coen
MILITELLO, ZANCK
& COEN, P.C.
40 Brink Street
Crystal Lake, IL 60014

c:\wplent\quiet\srvc\st.clm\September 16, 1997

A-132



A-133

EXHIBIT B

CRYSTAL LAKE PARK DISTRICT NO. 95 CH 22

Amalgamated Trust & Savings Trust #3670
Amcore Trust Co. Trust #3540
American National Bank Trust #52429
Anderson, Donald E. Trust and
Anderson, Marian J. Trust
Athans, Constantine J.
Behm, David A.
Behm, Jacquelyn A.

Boxamusa, Kamela Trust
Braise, Helen L Trust
Buck, Fred
Buck, Barbara
Buonauro, Anthony
Burns, Robert W.
Burns, Anna L.
Chicago Title & Trust, Trust #1081163
Christensen, Howard P.
Christensen, Martha S.
Cramm, Robert
Crockett, Marilyn L.
Dahl, Harold
Deetsen, Douglas R.
Dewey, Elizabeth H. Trust
Easton, Thomas L.
Easton, Stephanie A.
First Colonial Trust Co. TR 6551
First National Bank Woodstock Trust #475
First Colonial Trust Co. TR 1544-7
Flynn Family Trust #1
Fortier, Gerald E.
Fortier, Carla
Fritzpatrick, Heidi
Galizi, Lawrence
Galizi, Karen P.
Geiseke, Lester F.
Geiseke, Mildred
Golant, Benjamin
Golant, Barbara A.
Harris Bank Barrington Trust #11-1682
Hartwig, Leroy E.
Higgins, Patrick J. Jr.

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Home State Bank, Trust 4039
Home State Bank, Trust # 4181
Hooker, Susan P. Trust
Hooker, James H.
Hooker, Susan P.
Hoyne Savings and Loan
Jensen, Gregg B.
Jirka, Patricia A.
Jirka, Frank J.
Knauf, Leonard H.
Knauf, Elizabeth E.
Kolar, Louis
Kolar, Mildred
Lakeacres Property Owner Assc.
Lakewood, Village of
Lang, Donald
Lang, Melba

Langdon, John F.
Langdon, Mary M.
Lillquist, Elsa Trust
Mateljan, Lillian L. Trust
Mateljan, Carole Trust
McHenry State Bank Trust #2296
McHenry State Bank Trust #2437
McHenry State Bank Trust #1726
Mingus, Leroy F.
Mueller, Alois
Mueller, Gail M.
Nielson, Arthur C. Jr.
O'Connor, Donald J.
O'Connor, Alana K.
Oak Properties Land Trust
Olsen, James F.
Olsen, Arline A.
Pappalardo, Brian V.
Pappalardo, Elizabeth
Pesch, Donald J.
Pesch, Marilyn M.
Pennington, Lucille
Phillips, James D.
Phillips, Valerie A.
Rapp, James H.
Rapp, Astrid L.
Reedy, Robert B.

A-136

Reedy, Candisanne T.
Ridenour, Richard R. Jr.
Ridenour, Holly J.
Ridey, Charles M.
Ridey, Jeanne M.
River Forest St. Bank, Trust #3311
Roman, Jerome R. Trust
Roman, Alice R. Trust
Rueckert, Craig T.
Rueckert, Leslie
Schall, Kirby J. Jr. Trust
Scherf, Glenda B/Fam Decl TR
Stone, Robert M.
Stone, Lorraine A.
Sullivan, Kevin H.
Forster, Catherine
Thinnes, Richard R.
Thinnes, Maureen M.

Vogelman, Richard P.
Vogleman, Marilyn R.
Walker, Janice F.
Zeman, William E.
Zeman, Susan K.

Crystal Lake Park District NO. 95 CH 22
Plaintiff,

Original Defendants(Non-Velde Defendants)

Amcore Bank Woodstock
Amcore Mortgage Corp.
Associates Nat'l Mortgage Corp.
Austin, Dwight J.
Austin, Carolyn A.
Banc One Mortgage Corp.
Bank of New York
Barnett, Alice H.
Barnett, Stephen K.
Bartlett, Rosemary A.
Bartlett, Robert C.
Baxter Credit Union
Bevell, Grant R.
Bregman, Harold
Bregman, Judith B.
Buonauro, Anthony C.
Buonauro, Angeline
Cardunal Sav. Bank FSB
Chamberlain, Frederick L.
Chamberlain, Peggy G.
Chemical Mortgage Co.
Chemical Bank
Chicago Title & Trust Co.
Citibank FSB
City of Crystal Lake
Clarke, Matthew
Colberg, Medora Mae
Colberg, Schiller A.
Comerica Mortgage Corp.
Country Club Addition Property Owners Association
Cowan, Grace E.M.
Cowan, William H.
Cox, John J.
Divita, James A.
Divita, Vicki S.
Ernst, Carol D.
Ernst, Terry O.
Essex, William R.

Essex, Kathryn L.
Estergard, Anthea
Estergard, James A.
Farm and Home Sav. Ass'n
FCC National Bank
Federal National Mortgage Association
Fetzner, Phyllis
Fetzner Donald
First National Bank of Chicago
First Colonial Bank
First Nat. Bank of Northbrook
First Nationwide Mortgage Corp.
First Nat'l Bank of Lincolnshire
Fitzpatrick, D.D.S. Frederick
Fleet Mortgage Co.
Fleet Real Estate Funding, Corp
Frederich, Nan B.
Frederich, robert J.
Frenk, Ellen L.
Frenk, William B.
Garrison, , Agnes M.
Garrison, Beth
Gebis, Wayne S.
Gebis, Kathleen
Graham, Cathy J.
Graham, David J.
Great Western Bank FSB
Great Northern Mortgage
Grippio, Harriet
Grippio, Frank
Harmon, Anne V.
Hartwig, Leroy E.
Hartwig, Patricia E.
Hasselman, James J.
Hasselman, Joan M.
Hassenmiller, Marshall G.
Hassenmiller, Estelle K.
Headrick, Gregory C.
Heisler, James L.
Heisler, Carol L.
Hippert, Patricia J.
Home State Bank, N.A. as successor to Home State Bank of Crystal Lake
Jensen's Plumbing and Heating
Kane, Micheal L.
Kane, Debra D.

Bank of New York
Kapp, Carol A.
Katrina Builders
Kinnerk, Angelina
Klimala, Melodee R.
Klimala, Kenneth S.
Kolar, Louis
Kolar Mildred
Krol, Casimir T.
Lake Street Beach Association
Lang, Robert O.
Lang, Jeanette A.
LaSalle Talman Bank FSB
Lomas and Nettleton Company
Madda, James V.
Madda, Judith A.
Margaretten and Co., Inc.
Martin, Robert C.
Martin, Kimberly V.
Mastandrea, Micheal S.
Mastandrea, Rita J.
Mateljan, Peter M.
Mateljen, Carole L.
Matthaei, Ingrid E.
Matthaei, Philip B.
Meadows Credit Union
Merrill Lynch Credit Corp.
Mueller, Bela
Nardi, Adrian
Nardi, Susan
National City Mortgage
Naughton, Richard P.
Naughton, Colleen
New Spirit Credit Union

Old Kent Bank and Trust Co.
Papa, Ubaidur R.
Papa, Hussaina
Parrent, Melinda
Parrent, Thomas K.
Pautz, Harvey E.
Pennington, Lucille
Plews, Jean E.
Plews, George M.
Puchner, Helen

Puchner, Erich F.
Rieger, Paul L.
Rieger, Michelle L
River Valley Savings Bank FSB
Rooney, Marvin E.
Rooney, Margaret A.
Rule, Jane F.
Rule, Robert F.
Rust, Mildred H.
Rust, Nancy Jean
Ryan, Thomas F.
Ryan, Patricia F.
Sauers, Patricia P.
Schneider, Robert A.
Searer, Judith A.
Sears Mortgage Corp.
Smuda, Joseph S.
Smuda, Elizabeth
Source One Mortgage Services Corp.
Staebell, James M.
Steffen, Matther J.
Stickling, John H.
Stickling, William R.
Suburban Bank of Rolling Meadows
Templin, Gregg T.
Templin, Suzanne M.
Thompson, Elaine
Thompson, Reynald E.

Urban, Emily L.
Urban, Walter A.
Valentine, Susan T.
Valentine, Patrick S.
Village of Lakewood
Waschow, Claudia C.
Waschow, William G.
Washburn, Ryan F.
Watrach, Florence
Watrach, John W.
Wolf, Louise F.
Wolf, Henry A.
Wozniak, Mary A.
Wozniak, John M.
Zacharias, Joan
Zacharias, Jerome J.

Amcore Bank, Trust #1459

Batavia Bank, Trust #209

Citibank FSB as successor to First Federal Savings and Loan

Dorothy S. Brandeau Declaration of Trust

First National Bank of Crystal Lake, Trust #88-128

Colberg, Medora M. Self-Declaration of Trust

Davis, Robert E. Living Trust

First National Bank, Trust #82-111

Gary-Wheaton Bank, Trust #4493

Harris Bank Barrington, Trust #11-1505

Home State Bank, Trust #2217

Home State Bank, Trust# 2339

Home State Bank, N.A. as successor, Trust #3257

Home State Bank, N.A., Trustee Trust #1264

Itasca Bank and Trust

McHenry State Bank, Trust #12638

McHenry State Bank, as Trustee under Trust Agreement known as Trust #1726

Kelly, Joanne C. Revocable Trust,

Landgraf, Evelyn L. Trust #101,

McHenry State Bank, Trust #4378

McHenry State Bank, Trust #2217

P.C. Profit Sharing Trust, Trust #1726

State Bank of Woodstock, Trust #3442

State Bank of Woodstock, Trust #3873

Union Nat. Bank and Trust Co. of Elgin

