



April 18, 2024

MEMORANDUM

To: Parties of Record

From: Chesapeake Beach Board of Appeals

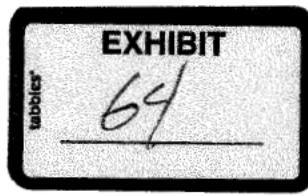
Re: Case No. 2023-03, Rod n Reel, Inc./Donovan Estates LLC

This Memorandum is to give you notice that the following five correspondences have been submitted to the Chesapeake Beach Board of Appeals in the above-referenced case:

1. Exhibit #64 – Letter dated March 26, 2024, with attached email, addressed to the Board of Appeals from Todd Pounds, Counsel for the Town of Chesapeake Beach.
2. Exhibit #65 – Letter dated March 28, 2024, with attached email, addressed to the Board of Appeals from Todd Pounds, Counsel for the Town of Chesapeake Beach.
3. Exhibit #66 – Motion letter dated April 12, 2024, with attached email, addressed to the Board of Appeals from Todd Pounds, Counsel for the Town of Chesapeake Beach.
4. Exhibit #67 – Letter dated April 15, 2024, with attached email, addressed to the Board of Appeals from Todd Pounds, Counsel for the Town of Chesapeake Beach.
5. Exhibit #68 – Letter dated March 28, 2024, addressed to Frederick Sussman, Counsel to the Board of Appeals, from the Law Offices of Eric Blitz, Appellant Counsel.

Copies of these correspondences are enclosed and also may be found on the Town’s website at www.chesapeakebeachmd.gov under the Board of Appeals webpage.

It is contended that these correspondences were submitted outside the record of this case. Accordingly, as a party of record in this case you have the right to rebut any or all of these correspondences. Any and all rebuttals must be made in writing and delivered to Sharon Humm, Clerk to the Board of Appeals, at Chesapeake Beach Town Hall, 8200 Bayside Road, Chesapeake Beach, MD 20732, or email shumm@chesapeakebeachmd.gov not later than **4:00 p.m. on Tuesday, April 30, 2024.**




Eric Blitz [REDACTED]

Letter regarding Case#2023-03 RNR

Sharon Humm <shumm@chesapeakebeachmd.gov> Tue, Mar 26, 2024 at 3:43 PM
To: Jody Hoon-Starr <[REDACTED]>, PAUL DOHERTY <[REDACTED]>, R Burch <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>
<[REDACTED]>
Cc: Pat Mahoney <pmahoney@chesapeakebeachmd.gov>, Eric Blitz <[REDACTED]>, "Frederick C. Sussman" <[REDACTED]>, Todd Pounds <[REDACTED]>, Holly Wahl <hwahl@chesapeakebeachmd.gov>

All:

Please find the attached letter from Mr. Pounds regarding Board of Appeals Case #2023-03 Rod n Reel.

 [Untitled].pdf
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ALEXANDER & CLEAVER

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James A. Cleaver ^{MD DC}
Todd K. Pounds ^{MD DC}
Jason A. DeLoach ^{MD DC}

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6710 Oxon Hill Road, Suite 330
Oxon Hill, Maryland 20745

Admitted to Practice in State

March 26, 2024

Jody Hoon-Starr, Chair
Town of Chesapeake Beach
Town Hall
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD. 20732

Re: Mr. Woodburn as Witness

~~Dear Mr. Chair:~~

Pursuant to your request of the last meeting, I would like to request that Mr. Woodburn be returned to testifying about issues regarding a possible conflict of interest.

Mr. Woodburn was the Town Engineer and paid by the Town. Mr. Woodburn was also the engineer for the RNR projects. When questioned, Mr. Woodburn indicated that other engineers in Town had been reviewing these RNR applications. It appears from the Town that no other engineers were working on these projects but him. Thus it appears that Mr. Woodburn was preparing the applications and also reviewing them on behalf of the Town. This becomes important in that the applicant has submitted various permits for projects in which they are now claiming were previously approved. However, it appears that these approvals were given by Mr. Woodburn when he was preparing the applications and also reviewing them on behalf of the Town. This greatly questions the validity of these permits which are exhibits. Also that truly becomes a question as to the extent that Mr. Woodburn is acting on behalf of the Town in a fiduciary basis with the Town's best interest when he is also preparing and working for RNR on these same projects. This obviously relates directly to the evidence and testimony with regard to those previous permits. Thus, it is important that Mr. Woodburn returns to further clarify whether there are any conflict of interest issues. If Mr. Woodburn decides not to return to further testify and clarify these issues, I would move that his entire testimony be stricken.

The same issue applies to Mr. Blitz, since during that time, he was acting as the Town Attorney, attorney for the Planning Commission, and also representing RNR with regard to these applications. I believe it is important for Mr. Blitz to be able to reiterate how he is acting in the best interest of the Town when he is also representing RNR and presumably acting in the best interest of his client on these same projects.

Very truly yours,

Todd K. Pounds

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March 26, 2024

Jody Hoon-Starr, Chair
Town of Chesapeake Beach
Town Hall
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD. 20732

Re: Mr. Sussman as Witness

Dear Mr. Chair:

I would like to make an unusual request to call Fred Sussman as a witness to these proceedings. There is a current issue regarding the power of the Board of Appeals to overrule Town Council as to whether the Town Council should have established the moratorium by an ordinance or a resolution. I am not in any way conceding that the Board of Appeals can make that decision to in any way overrule Town Council. However, Mr. Sussman and I discussed this issue many months ago. It is my understanding that his belief was that it probably should have been performed by an ordinance. This brings me to the purpose of this letter and my request to call Mr. Sussman as a witness. It is undisputed that Mr. Sussman is a fiduciary for the Town. He is representing the Town and he is being paid by the Town. He is under an obligation to do what is in the best interest of the Town. This brings me to the primary question in that if Mr. Sussman truly believed that the Town Council should have passed an ordinance rather than a resolution, why did he not inform the Town Council when this occurred which he believed to be an error. He could have easily told the Town Council, informed me, or informed Ms. Wahl of this opinion rather than letting substantial time pass which becomes a critical question in the opinion of the applicant as to the proper procedure of the Town Council. Thus, it is important that if Mr. Sussman truly believes that his opinion is correct, why did he not inform the Town Council or someone from the Town pursuant to his fiduciary obligations to act on behalf of the Town instead of maintaining his silence until some late juncture in this hearing before the Board of Appeals. This is certainly reasonable and factually needed. I remain in the opinion that Mr. Sussman's opinion is not correct. While I am not accusing Mr. Sussman of any wrongdoing at all, I am questioning the failure to communicate his concerns when he had a fiduciary obligation to speak. I am fulfilling my fiduciary obligation by addressing this concern.

Also, about a month ago the City of Annapolis passed a moratorium regarding the issuance of cannabis licenses. The City Council passed their moratorium by a resolution in the same manner as the Town of Chesapeake Beach. I contacted Mr. Sussman to make sure he was aware of this action by the City. I was concerned that there was not any mention at the recent BOA hearing. The City of Annapolis has a team of in-house lawyers and the City Attorney for Annapolis is Michael Lyles, Esq. Mr. Sussman, Mr. Lyles, and myself all belong to an organization and thus we are familiar with each other. If Mr. Sussman truly believes his opinion that both the Town Council of Chesapeake Beach and also now the City of Annapolis have used the wrong mechanism, I would like to inquire as to why Mr. Sussman has not walked down the street from his office to the

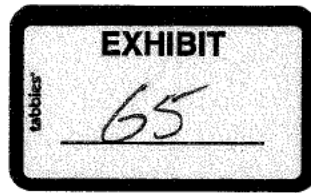
city offices of Mr. Lyles to inform him of what he perceived to be an error. This becomes important as to the basis and any possible bias of Mr. Sussman in his opinion when multiple jurisdictions and attorneys feel otherwise. Thus, if Sussman believes he is correct, then why is he maintaining his silence until a late juncture in a Board of Appeals hearing when he has a fiduciary duty to identify and correct errors. His failure to speak creates issues which create a direct impact on evidence before this Board, which makes it extremely appropriate to call him as a witness.

It has also come to my attention that Mr. Sussman has been doing research on this issue and billing the Town. Obviously, it is important to know why this is occurring now. It has also come to my attention that Mr. Sussman and Mr. Blitz have been discussing a particular memorandum in which the substance of that document is unknown. Any such information with regard to the research and any possible memorandum between Mr. Sussman and Mr. Blitz has not been provided to me. As a result, Mr. Sussman has certainly interjected himself as a factual witness to this proceeding, or at the very least, indicated a particular bias which certainly needs to be examined under oath. The above information should have been communicated to this Board as well as communications and research between Counsel. All of this is especially true in that Mr. Sussman remains a fiduciary of the Town, and after other Councils and attorneys believe he is wrong in the mechanism for the moratorium. The Town Council and the City of Annapolis believe that the resolution would be the appropriate mechanism and the only ones who believe otherwise appear to be Mr. Sussman and Mr. Blitz. This information should have been brought before the Board of Appeals.

Also, apparently Mr. Sussman has been communicating with Mr. Blitz and exchanging memos which were not provided to me.

Very truly yours,

Todd K. Pounds



Eric Blitz <[REDACTED]>

Letter RE: BOA#2023-03 RnR

Sharon Humm <shumm@chesapeakebeachmd.gov> Thu, Mar 28, 2024 at 10:42 AM
 To: Jody Hoon-Starr <[REDACTED]>, PAUL DOHERTY <[REDACTED]>, [REDACTED]
 [REDACTED], R Burch <[REDACTED]>, [REDACTED] <[REDACTED]>
 "Frederick C. Sussman" <[REDACTED]>, Eric Blitz <[REDACTED]>, Pat Mahoney
 <pmahoney@chesapeakebeachmd.gov>
 Cc: Holly Wahl <hwahl@chesapeakebeachmd.gov>, Todd Pounds <[REDACTED]>

ALL:

Please find attached letter from Mr. Pounds regarding the Board of Appeals Case #2023-03 Rod n Reel. Thanks

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6710 Oxon Hill Road, Suite 330
Oxon Hill, Maryland 20745

March 28, 2024

Jody Hoon-Starr, Chair
Town of Chesapeake Beach
Town Hall
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD. 20732

Dear Mr. Chair

I want to make the Board of Appeals aware of a recent notice we have received from RNR with regard to potential litigation.

I am sending you a copy of this notice to make you aware of this additional potential litigation with regard to this matter. I am concerned at the timing of this notice which is occurring in the middle of a hearing and how that potentially could be viewed as intimidation to the Town, Town Council, and/or Board of Appeals. Such a notice certainly will make everyone aware that everyone can potentially be a witness in this potential new litigation.

While, legally, this notice may be late, it is an aspect in which you should be aware especially as it relates to who may be potential witnesses in the future.

Very truly yours,

Todd K. Pounds

February 7, 2024

Kurt J. Fischer

t 410.494.6353
f 410.821.0147
KJFischer@Venable.com

Holly Kamm Wahl
Town Administrator
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD 20732

Pat Mahoney
Mayor and Town Council President
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD 20732

Re: Local Government Tort Claim Act Claim Notice of Claim

Dear Ms. Wahl:

I write to submit a formal notice of claims, pursuant to the Local Government Tort Claims Act Md. Code Ann., Cts & Jud. Proc. ("C&J"), § 5-304(b) on behalf of Rod & Reel, Inc. and Donovan Estates, LLC (collectively "Rod & Reel") against the Town of Chesapeake Beach (the "Town").

Rod & Reel's claims are based on the Town's unlawful and unconstitutional imposition of a moratorium on development approvals, including site plan approvals, that was unreasonable and unlimited in duration and scope. The imposition of this moratorium prevented Rod & Reel from (1) making beneficial use of five properties described on the attached list, and (2) receiving regulatory approvals that would have been granted in the ordinary course under existing law allowing the properties to be developed to their highest and best use.

On March 18, 2021, the Town Council of Chesapeake Beach adopted Resolution R-21-3 to impose a moratorium of development approvals, including site plan approvals, for the purpose of permitting the Town Council and Planning Commission to consider and adopt a new comprehensive plan and comprehensive zoning ordinance. The Planning Commission had recommended a moratorium of one year, but the Town Council approved only a period of nine months. The adoption of a resolution, as apposed to an ordinance, was a violation of the Town Charter and Md. Code Ann., Land Use, § 4-203 and denied the public adequate notice and an opportunity to be heard. Subsequently, the Town Council adopted Resolution R-21-8 in which it extended the moratorium by an additional three months. This extended moratorium expired by its

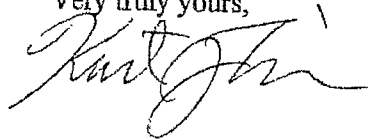
February 7, 2024

Page 2

terms on March 18, 2022, and the Town Council did not extend it. Following the expiration of the moratorium, Rod & Reel sought to process its site plan applications but was denied the right to do so on grounds that the comprehensive plan and comprehensive Zoning ordinance were still being developed, even though no moratorium was in place. The Town's unilateral and unauthorized extension of the moratorium made the moratorium of unlimited duration and prevented Rod & Reel from obtaining approvals that would have permitted the development of the property to its highest and best use. Rod & Reel is conducting its valuation analysis and will seek just compensation in an amount not less than \$2 million.

The Town's actions in imposing this moratorium and allowing it to be indefinite and overly broad in scope violated Rod & Reel's Federal and State rights constitutional to substantive due process and constituted a taking under the 14th Amendment to the United States Constitution and Article III, § 40 of the Maryland Constitution.

Very truly yours,



cc: Todd Pounds, Esquire

Properties:

Harbor Vista West Site Plan

3840 Gordon Stinnett Avenue, Chesapeake Beach, MD 20732

Tax ID: 03-153614

Map 103

Grid 20

ABE 4, Plat 293/294

Parcel: J

Harbor Vista South Site Plan

8016 Bayside Rd, Chesapeake Beach, MD 20732

Tax ID: 03-153517

Plat Book AB4; Plat 293

Parcel: Remainder Parcel A

Harbor Vista North Site Plan

18259 S. Harbor Vista North, Chesapeake Beach, MD 20732

Tax ID: 03-252568

Plat Book AB4; Plat 293

Parcel: Land Unit 1 and residue Parcel J

Home Place Site Plan

3418 Cox Road, Chesapeake Beach, MD 20732

Tax ID: 03-146154

TM: 101

Parcel: 57

Lot: 1 & 2

Stinnett Place Site Plan

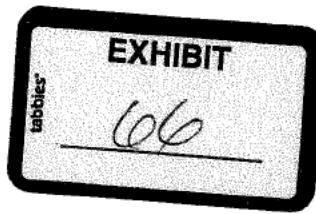
8617 Bayside Rd., 8715 Bayside Rd., 8709 Bayside Rd., Chesapeake Beach, MD 20732

Tax ID: 03-042103; 03-042278; 03-042162

TM: 101

Block: 15

Lot: 6, 8, 10, 11, 12A & an unlabeled strip between Lots 9 & 10, Block 13, Baycrest Subdivision
Lots 34-39 of L.E. Walker Subdivision



Eric Blitz <blitz.eric@gmail.com>

Motion letter from T. Pounds to BOA

Sharon Humm <shumm@chesapeakebeachmd.gov> Fri, Apr 12, 2024 at 11:09 AM
 To: Jody Hoon-Starr <[REDACTED]>, PAUL DOHERTY <[REDACTED]>, R Burch <[REDACTED]>
 <[REDACTED]>, "Frederick C. Sussman" <[REDACTED]>, Eric Blitz <[REDACTED]>
 Cc: Holly Wahl <hwahl@chesapeakebeachmd.gov>, Todd Pounds <[REDACTED]>, CouncilGOV <[REDACTED]>
 <Council@chesapeakebeachmd.gov>, Kathleen Berault <[REDACTED]>, Cindy Greengold <[REDACTED]>
 <[REDACTED]>, Lori Blackwelder <[REDACTED]>, Larry Brown <[REDACTED]>
 Kelly Hahn <[REDACTED]>, Rachel Larsen Weaver <[REDACTED]>, retiredrel1 <[REDACTED]>

ALL:

Please find attached letter from Mr. Pounds pertaining to BOA Case #2023-03, Rod n Reel, Inc/Donovan Estates, LLC.

Motion letter from T. Pounds to BOA.pdf
 181K

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Oxon Hill, Maryland 20745

April 12, 2024

Town of Chesapeake Beach
Town Hall
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD. 20732

Dear Board of Appeals:

Please accept this Formal Motion to address a number of procedural aspects of the current hearing that need to be addressed. As you know, this hearing is discussing various applications to have residential houses to be constructed in areas which have been designated as floodplain. This fact was supported by the testimony of both Mr. Donovan and Mr. Woodburn, both of whom testified under oath.

Please be advised that the Town has issued to me a mandate to protect the public. This goes beyond just representing a client, but, goes to doing what is in the best interest of the public and includes preventing a public health issue which will ultimately harm the public and put a strain on public services addressing areas in which everyone, including the applicant, who knows that the area of these applications will flood. The candor and honesty of Mr. Donovan and Mr. Woodburn should be commended in admitting to this floodplain.

The applicant is placing emphasis on the fact that permits were issued many years ago for these projects. I have filed a motion with this Board to have Mr. Woodburn return to further testify with regard to these prior permits when he was acting as the engineer for the applicant and also acting as the engineer for the Town. He testified that some other engineer reviewed the application for the Town which appears to be untrue. This conflict of interest needs to be further explored as to the validity of this evidence of prior permits which has been submitted before this Board. Mr. Blitz was also the attorney for the applicant and also the attorney for the Town of Chesapeake Beach and also the Planning Commission. This issue will also be discussed with Mr. Blitz during his cross-examination regarding these prior applications and permits. If the Board decides not to return Mr. Woodburn to testify, I am formally requesting a subpoena to be issued and I will serve it upon Mr. Woodburn. If Mr. Woodburn is not recalled, I will insist on a specific reasoning which will be addressed in a subsequent action.

I also submitted to this Board a number of different letters in which I am including in this Motion by reference to be addressed as procedural matters to be reviewed. I am making a formal request that all of the letters previously submitted to be made part of the record for future action.

Over the past 20 plus hours, this Board has been told again, again and again, with regard to power and authority that the applicant wants you to believe that you have. In reality, you simply do not have that authority to perform. The reason we are before the BOA is that the Zoning Administrator said no to houses in the floodplain, the Planning Commission said no to houses in the floodplain, and the Town Council also said no to houses in the floodplain. Furthermore, it appears that the applicant believes that if one tells the BOA enough times that they have authority and power, then, they will simply believe it.

Also, the BOA does not have the authority to instruct or order any "person" to do anything. Town Council also does not have any actual authority to instruct or order any person to do anything, however, Town Council can terminate an employment through their budgetary authority which the BOA does not have. Thus, the BOA does not have the authority to tell anyone to do anything for any person and especially any Town Officials as it is being requested to the Zoning Administrator. If the BOA believes it has all of the authority that the applicant wants you to have then the BOA should put that authority to the test with regard to this Motion right now. The BOA should make a Motion immediately to terminate me as Town Attorney and as a Town Official. The BOA is being requested that it require another town official, the Zoning Administrator, to perform an act when the BOA does not have the authority to require that town official or any Town Official to do anything. For the purposes of this motion, I'm ignoring the part of the requests that the BOA is also supposed to instruct another administrative agency, the Planning Commission, in the Town to perform an act, as well as, to follow a particular law in performing that act. Thus, in addressing the first issue as to whether the BOA as the authority to tell a town official to perform any act whatsoever, I would suggest that the first thing the BOA do is to terminate me.

Be advised, for the entity that truly runs the Town, the Town Council, insubordination would not be tolerated and may lead to immediate termination. Thus, if you truly believe that you have authority to dictate to other town officials that they are required to perform certain actions, then exercise that authority immediately upon me and terminate me as Town Attorney. However, your failure to do so strongly indicates that you are fully aware that you do not have such authority and that any further and future actions are with full actual knowledge and intent that you do not have such authority. This is regardless of multiple statements that have been made that you have the authority to set up a process for houses to be built in the floodplain, as testified to by Mr. Donovan, and overturn actions by Council or exercise your supposed veto authority over Council.

Furthermore, I am sure that the BOA will be reviewing the Town's Coastal Resiliency Plan and the new Hazard Mitigation Plan and any and all other matters that have or may come before Town Council which would interfere with this requested floodplain development which is being advocated. It is important for the BOA to take these veto actions over Town Council immediately, especially since you have been told many many times that you have this authority. The BOA needs to exercise their authority over Town Council and stop and overrule these protective measures for the public so that houses can be built in the floodplain as indicated by Mr. Donovan and Mr. Woodburn. The BOA will need to act immediately to overturn action by Town Council and protect this floodplain housing development project.

Thus, if you think that you do have that unlimited authority, then start with me and I will perform any insubordinate conduct that you request so you will take this action that you perceive or are told many times that you have over a Town Official or Town Council. You should take this action regardless of any potential consequences or penalty which may occur by such actions. If you have the authority then use it, otherwise, the only assumption that can occur is that you are fully aware that you do not have the authority to dictate to another individual, much less another town official, to perform a particular action. Of course, it still needs to be established how the BOA can tell the Planning Commission to perform a particular task or conduct and/or which law they are to follow which will be addressed in future motions and actions. For the purposes of this motion, we will ignore the fact that the applicant did not go before the Planning Commission to discuss these applications and any other estoppel issues during the Comprehensive Plan process as testified by Mr. Donovan and Mr. Woodburn.

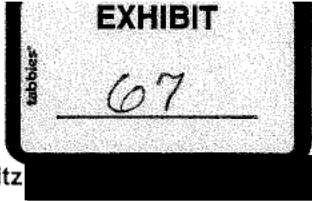
Again, please accept and review this Motion and these issues with regard to procedural aspects of this case which must be addressed as well as the other letters that I've previously submitted to be incorporated by reference into this Motion to be reviewed by the Board. Please have all of these documents placed in the record for further action.

I take my mandate of protecting the public very seriously and fully intend to take whatever actions to prevent the public from being harmed by having residential houses in a floodplain where from the beginning everyone knows that public will be harmed.

Very truly yours,

Todd K. Pounds

Todd K. Pounds



Eric Blitz

FW: RNR

Sharon Humm <shumm@chesapeakebeachmd.gov> Mon, Apr 15, 2024 at 2:43 PM
 To: CouncilGOV <Council@chesapeakebeachmd.gov>, Jody Hoon-Starr <[REDACTED]>, PAUL DOHERTY
 <[REDACTED]>, R Burch <[REDACTED]>, Kathleen Berault <[REDACTED]>, Cindy
 Greengold <[REDACTED]>, Larry Brown <[REDACTED]>, Lori Blackwelder
 <[REDACTED]>, Kelly Hahn <[REDACTED]>, Rachel Larsen Weaver
 <[REDACTED]>, retiredrel1 <[REDACTED]>, Eric Blitz <[REDACTED]>, "Frederick C.
 Sussman" <[REDACTED]>
 Cc: Holly Wani <hwani@chesapeakebeachmd.gov>, Todd Pounds <[REDACTED]>

ALL:

Please find attached letter from Mr. Pounds addressed to the Board of Appeals in reference to the Rod n Reel case #2023-03.

 [Untitled].pdf
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ALEXANDER & CLEAVER

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Jason A. DeLoach ^{MD/DC}

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April 15, 2024

Town of Chesapeake Beach
Town Hall
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, MD. 20732

To the Board of Appeals:

Please accept these additional motions to the BOA and make all of the motions part of the record. I am submitting this formal notice to the BOA. This BOA been told many, many times that the moratorium passed by the Town Council should have been by an ordinance as opposed to a resolution. The BOA should be informed, with this formal notice, that the City of Annapolis recently passed its own moratorium as a relates to cannabis issues. That municipality likewise passed that moratorium with a resolution as opposed to an ordinance. Thus, it appears that multiple municipalities as well as a number of their municipal attorneys indicated that the proper mechanism for this moratorium was indeed a resolution as opposed to an ordinance that has been indicated to this BOA. I want to file this formal notice to make sure that the BOA is informed and, that the record is accurate, as to the apparent statements of Mr. Blitz as to the actions of these municipalities and their municipal attorneys as to his incorrect opinions as to the actions of Council.

However, I remain concerned at the apparent new power and authority of the BOA as it is being communicated, which I can assure you does not exist, and especially as it relates to the apparent power and authority to overrule and veto the Town Council. Unfortunately, it has not been fully identified whether this apparent unlimited power and authority is just within the Town or actually extends beyond the Town of Chesapeake Beach to other municipalities, including the City of Annapolis. If the BOA does have the actual authority to overturn and veto such resolutions this Board should immediately contact the City of Annapolis to inform them of their error with regard to their improper mechanism which is being advocated to this Board by Mr. Blitz or simply veto their resolution. Of course, for some reason, it is my understanding that Town Council for Chesapeake Beach still believes that they are the appropriate body that runs the Town without the BOA having overriding and veto authority. The Town Council needs to be informed of their error immediately by the BOA, and, also, inform the City of Annapolis of their error or simply overturn or veto their action.

Furthermore, the Planning Commission is being included on all of these matters being presented before the BOA since they are becoming an integral part of the decisions of the BOA which will affect their decision-making process. The Planning Commission needs to be informed that the BOA will be informing them how they will make their decisions, and, at the very least, what law they are to follow. It is important for the Planning Commission to be aware that under this new apparent power they are subordinate to the BOA as it is being advocated even if the BOA does not have the actual authority to do so other than the opinion of the applicant.

Also, as this Board is aware, this Board spent almost one whole meeting night, almost 2 hours, on the issue of whether witnesses, and specifically, Mr. Blitz, was sworn in and whether his 22+ hours of narrative was actually testimony which was subject to cross-examination or otherwise. Mr. Sussman has already indicated that Mr. Blitz will be subject to cross-examination as a result of his giving testimony. However, at the end of the previous meeting, Mr. Blitz indicated that during certain parts of his presentation, it was not testimony and he was not under oath. This creates a major issue as to transparency and the proper function of government when a witness is permitted to decide when they are under oath and when they are not at their whim. To make sure that the public is completely and adequately and accurately informed as to when there is testimony, I would suggest that when Mr. Blitz is testifying, and under oath, that he raise his right hand so that we know that he is now under oath and telling the truth, and raises left-hand when he is not. Or, any other similar method which would be developed by the BOA will be acceptable.

However, it cannot be stressed enough that I absolutely and specifically will be assured that there is transparency with the public and that I fully intend to protect the public interest throughout this entire process including, specifically, that the purpose of this application is to place residential houses in a floodplain which seems to be consistently overlooked during this process and this hearing and the severity of this public health issue. The BOA should make it clear to the public that the purpose of this application is to put houses in the floodplain as testified by both Mr. Donovan and Mr. Woodburn and that this concept has previously been rejected by the Zoning Administrator and Town Council and that this issue was never brought before the Planning Commission to even consider but with the rezoning was rejected.

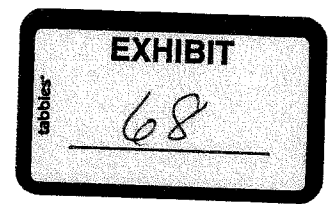
I can assure this BOA that transparency will be maintained and all of the issues in these motions will be addressed.

Very truly yours,

Todd K. Pounds
Todd K. Pounds

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Eric J. Blitz, Esquire
Email: blitz.eric@gmail.com

March 28, 2024

Sent Via Email Only

Frederick C. Sussman, Esquire
Council Baradel
125 West Street, Fourth Floor
Annapolis, MD 21401

Re: Chesapeake Beach Board of Appeals; Case 2023-3

Dear Fred:

I have received three letters Board (two dated March 26, 2024 and one dated March 28, 2024) from Todd Pounds, who represents an intervening party, the municipal corporation of Chesapeake Beach, Maryland, to the Chair of the Board of Appeals in Case 2023-3.

I object to the ex parte communications of Mr. Pounds to the Chair about substantive matters in this case. That the letters are being distributed via email to all Board members compounds the problem, though I do not know if Mr. Pounds directed that occur. While I appreciate that I am being copied on those emails, every single member of the public who has testified or signed up to testify is a party to this case and is not copied on those emails. Any one of them could be raising the objection I am raising now, if they knew what was going on. All arguments about the merits of the proceeding should be presented, argued, and determined in a meeting open to the public at which all parties can have the same opportunities for preparation and counter-argument as every other party. Mr. Pound's client has no greater status in this case than any other intervening party. While I maintain my objection to all three letters being distributed to the Board, I recognize that the letter of March 26, 2024 from Mr. Pounds, with the reference line "Mr. Woodburn as a Witness", was sent in response to a request from the Chair. However, this has blossomed into a series of letters unrelated to the Chair's request which include assertions that should be presented to the Board only in a public meeting.

The Rod & Reel's arguments to the allegations and arguments raised in Mr. Pounds letters will be presented to the Board at a public meeting of the Board, on the record.

Sincerely,

/s

ERIC J. BLITZ

Cc: Todd Pounds, Esquire