

Robert Abboud Involvement in Schuman Letter

From: Cblecompte@
Sent: Sunday, February 20, 2011 3:21 PM
To: David Stieper
Subject: Fwd: Abboud letter 3

David, also relative to the below, it would be helpful if you, being chairman of the Planning Commission, could help persuade Bobby on this issue. Thanks.
Berry

—Original Message—

From: Cblecompte@
To: david@
Sent: Sun, Feb 20, 2011 2:04 pm
Subject: Fwd: Abboud letter 3

David, below is a note to Steve Knoop regarding a prototype letter that I have proposed from Bobby Abboud. Give me a call with your thoughts if you have a chance. Thanks.
Berry

—Original Message—

From: Cblecompte@
To: sknoop@ ; cblecompte@
Sent: Sun, Feb 20, 2011 2:01 pm
Subject: Fwd: Abboud letter 3
February 20, 2011

Dear Steve,

Yesterday Paddy McKeivitt spent about three hours talking to Bobby Abboud about the horse boarding and training issue and, in particular, the potential negative effect Drury's and McLaughlin's suit against me could have on the entire Village if it is forced to shut down other barns. Apparently, Bobby asked Paddy what he wanted him to do, and Paddy told him, in no uncertain terms, that the Village needed to get involved in my case, which thus far Wambach has refused to do.

As you may know, effective last Monday, February 14, 2011, while we are awaiting the appellate courts decision on our agricultural status, we changed our operational procedures at Oakwood to bring the barn into compliance with the home occupation provision, pursuant to section 5-3-4(D)3(g) of the Village code.

We notified the Village and Wambach of our change, but Wambach, in his written response, refused to acknowledge our compliance. Legally, we are clearly compliant with the home occupation provision of the code at this time, and there is absolutely no valid reason for the Village not to acknowledge such.

We will be in court on Tuesday and file a motion to dismiss the Drury- McLaughlin suit, pursuant to multiple provisions within The Illinois Code of Civil Procedure; however, based on our compliance with the code at this time, we are asking them for a voluntary dismissal or, alternatively, run the risk of being charged with a Supreme Court rule 137 violation. While at this time, they are not willing to do so,

I believe that a letter from Bobby, stating our compliance with the home occupation provision, not the agricultural provision that is now before the appellate court, would put significant pressure on them to voluntarily dismiss, or risk the 137 sanctions.

Below is a prototype letter that I drafted, with Paddy's encouragement, from Bobby to me that addresses the pertinent issues, which obviously Bobby is free to change as he deems appropriate, as long as the the substance remains essentially the same.

Hopefully, if you agree with my position, you can help persuade Bobby that this is, not only helpful to me, but more importantly, in the Village's best interest as well.

While I am currently in Scottsdale until later tonight, if you would like to discuss this with me please don't hesitate to call my cell, 847.

Thanks for any help you can provide.

Sincerely,
Berry

From: Cathleen LeCompte
To: Ken Michaels
Sent: Sun, Feb 20, 2011 11:25 am
Subject: Fwd: Abboud letter

This is a copy of the letter that berry drafted for abboud to send to us.

Catheleen LeCompte

Begin forwarded message:
From: "Cblecompte@"
Date: February 20, 2011 11:12:23 AM MST
To: cblecompte@
Subject: Abboud letter

Village of Barrington Hills
Barrington Hills, Illinois 60010
February 20, 2011
Benjamin B. LeCompte, III, MD
Oakwood Farm
350 Bateman Road
Barrington Hills, Illinois 60010

Dear Dr. LeCompte:

I am in receipt of your correspondence of 2/14/2011 and your attorney's letter of 2/15/2011 to the Village attorney, Doug Wambach, as well as Mr. Wambach's response of 2/15/11. Furthermore, I appreciate your additional clarification of the present situation at Oakwood Farm. As you are aware, the Village has and continues to take the position that boarding and training horses is not an agricultural purpose based on the Village's definition of agriculture, and therefore, is not covered by section 5-3-4(A) of the Village Code. Accordingly, from an agricultural perspective, the Village does not recognize agricultural boarding, per se, to be a legally permitted use within the Village.

Submitted On Behalf of Tom Burney - Drury

However, as you correctly point out, the Village does allow boarding and training horses as an accessory use, under the home occupation provision, pursuant to section 5-3-4(D)3 (g) of the Village Code, and, furthermore, you obviously, by law, have as much right to board horses under this provision as any other resident of the Village does. Also, I am cognizant of the fact that you have recently made operational changes at Oakwood farm to bring your farm into compliance with the home occupation provision, pursuant to with 5-3-4(D)3(g), and the Village very much appreciates the effort that both Cathy and you made to do so.

You are correct, that the ZBA and the Cook County Circuit Court both found that boarding and training horses is not agricultural within the Village and, therefore, upheld the Village's cease and desist against your farm, based on your defense that your boarding and training operation was agricultural and protected pursuant to section 5-3-4(A) of the Village code. Furthermore, you are also correct that the Village never found you to be in violation of the home occupation provision, because you never claimed to be a home occupation, but rather an agricultural enterprise as stated above. Now that your are compliant with section 5-3-4(D)3(g) and operating as a home occupation, the Village no longer considers you to be in violation of the code and, therefore, you are operating within your legal rights.

Relative to your building permit, which was resubmitted in June 2008, I realize that you made the changes requested by the Village engineer and had a local licensed architect amend your plans. The Village has only held up the processing of your permit due to the fact that, as an agricultural operation, your were found to not be in compliance with the zoning code. Accordingly, since your are no longer in violation of the Village Code, there is no reason to further delay your permit, and, therefore, I will instruct the building department to commence processing your building permit immediately.

Again, thank you for making the effort to bring you equestrian operation into compliance with the home occupation provision of the code. Additionally, I realize that your appeal, relative to the agricultural provisions of the code, is still in the appellate court and, pending the outcome of that case, you reserve the right to reassert your agricultural status. Please let me know if the Village can be of further assistance.

Sincerely yours,

Robert Abboud
President,
Village of Barrington Hills

affidavit

3/1/11 3:27 PM

From: Dan Lundmark <dan@manarchy.com>
To: cblecompte@aim.com
Subject: affidavit
Date: Tue, Mar 1, 2011 12:15 pm

Hi,
Here is the exact language Bob used as to what needs to be in your affidavit.

- you understand that the village views your property as primarily residential.
- you are subject to the home occupation ordinance.
- you have modified your practices to be compliant with the home occupation ordinance.
- your buildings are in compliance with the village building code.

Hopefully, this will work.

Dan

LEC 0253

03/16/11 17:01 FAX 847 551 3050

VILLAGE BARRINGTON HILLS

002

President
ROBERT G. ABOUD

Trustees
FRITZ BOHL, Pro-Tem
WALTER E. SMITHE
STEVEN E. KNOOP
BETH MALLEN
ELAINE M. RAMESH
JOSEPH S. MESSER

KAREN B. SELMAN, Clerk
DOLORES G. TRANDEL, Deputy Clerk



112 ALGONQUIN ROAD
BARRINGTON HILLS, ILLINOIS 60010-5188
www.barringtonhills-il.gov

TELEPHONE
(847) 651-3000

FACSIMILE
(847) 651-3050

Via Fax and U.S. Mail

March 16, 2011

Dr. & Mrs. LeCompte
360 Bateman Road
Barrington Hills, IL 60010

Dear Dr. & Mrs. LeCompte,

The Building Department has received and examined your affidavit dated March 4, 2011. You have asked to consider the use of Oakwood Farm as a Home Occupation. The affidavit states the terms by which the use is a Home Occupation. Similarly, you submitted an employee register in support of the extent of your employee's hours.

Your Home Occupation pertains to boarding and training of horses, which is a use specifically referenced in subsection (g) of Section 6-3-4(D)3 of the Zoning Ordinance. Based on the information in your affidavit, it appears that the use of Oakwood Farm is a Home Occupation.

Sincerely,



Don Schuman

Building and Code Enforcement Officer

847-551-3003

A HOME RULE COMMUNITY

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JAMES J. DRURY III, as agent of the Peggy D.
Drury Declaration of Trust U/A/D 02/04/00, and
MICHAEL J. MCLAUGHLIN,

Plaintiffs,

-against-

BENJAMIN B. LECOMPTE, CATHLEEN B.
LECOMPTE, AND NORTH STAR TRUST CO.,
AS SUCCESSOR TRUSTEE OF HARRIS BANK
BARRINGTON N.A., AS TRUSTEE UNDER
TRUST NUMBER 11-5176,

Defendants.

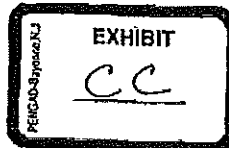
Case No. 11-ch-03852

Hon. Sebastian T. Patti

SWORN AFFIDAVIT OF BETH MALLEN

I, BETH MALLEN, of Barrington Hills, Illinois, hereby declare and affirm:

1. I am over 18 years old and otherwise competent to make this Affidavit. If sworn as a witness, I could competently testify to the matters set forth herein.
2. I have been a resident of the Village of Barrington Hills, Illinois ("Village") from April 1998 to the present. From April 2005 until April 2007 I was head of the Communications Committee for the Village, which included being editor in chief for the Village newsletter. I was elected to the Village Board of Trustees ("Board") in April 2007 and served my term which ended April 2011. In 2007 and 2008 I was the Trustee back-up to Trustee George Schueppert, who was the Trustee Liaison for the Village Zoning Board of Appeals.



3. At the December 17, 2007 Village Board of Trustees meeting, there were open discussions regarding Oakwood Farm and the commercial horse boarding operation that was ongoing at that location.

4. On January 8, 2008 there was a special meeting of the Village Board of Trustees. During that meeting, there was discussion of the commercial horse boarding at Oakwood Farm and the Board of Trustees authorized issuance of a cease and desist letter to Dr. and Mrs. Barry LeCompte.

5. On January 10, 2008 Douglas Wambach, Village counsel, sent a cease and desist letter to Dr. and Mrs. Barry LeCompte. (Ex. B.)

6. I attended the ZBA hearings in August 2008 regarding the appeal filed by the LeComptes seeking to overturn the cease and desist letter. I am aware of the decision by the ZBA on November 4, 2008 upholding the cease and desist letter and denying the appeal filed by the LeComptes.

7. It is my understanding that a lawsuit was then filed by the LeComptes against the Village in the Circuit Court of Cook County regarding the cease and desist letter, and the judge ruled against the LeComptes and in favor of the Village upholding the decision of the ZBA. It is my understanding that the LeComptes filed an appeal with the Illinois Appellate Court.

8. While I was a Village Trustee, it was my understanding that all of the provisions of section 5-3-4(D) of the Village Zoning Code would have to be complied with by a Village resident who wanted to board horses as a home occupation. Subsection (g) sets forth additional specific time limitations for horse boarding operations, but does not eliminate the

requirement that a horse boarding home occupation had to comply with all provisions of section 5-3-4(D).

9. I read the Village Newsletter dated February 2008 (Ex. Z) and specifically page 5 written by Trustee George Schueppert. As noted in paragraph 2 of my Affidavit, I was the editor in chief for the Village Newsletter from April 2005 until April 2007 and in February 2008 I was the backup Trustee to Trustee Schueppert for the Village Zoning Board of Appeals. This February 2008 Trustee update by Trustee George Schueppert accurately set forth the Village position on boarding of horses as a home occupation. The Village newsletter was mailed to Village residents to keep them apprised of the current status of events in the Village and the Village's position on issues of interest to Village residents.

10. I have been provided a copy of a letter dated February 15, 2011 from Douglas Wambach, Village counsel, sent to Ken Michaels, counsel for the LeComptes. (Ex. I.) Mr. Wambach's letter accurately sets forth and is consistent with what I have always understood to be the Village's position regarding Oakwood Farm. Mr. Wambach stated: "It is and has been the Village's position that Oakwood Farm does not comply with the requirements of the home occupation provisions of the Village's Zoning code." Robert Abboud, President of the Village of Barrington Hills, and Robert Kosin, Director of Administration of the Village of Barrington Hills, are copied on Mr. Wambach's letter. Neither Mr. Abboud nor Mr. Kosin nor Mr. Wambach ever personally advised me that the Village's position ever changed regarding Oakwood Farm.

11. I was provided a copy of the Schuman letter dated March 15, 2011 shortly after it was issued. I was shocked and outraged by the conclusion of that letter which states: "Based on the information in your affidavit, it appears that the use of Oakwood Farm is a Home

Occupation.” This letter is totally inconsistent with and contrary to my understanding of the intent, purpose, and interpretation of the Home Occupation Ordinance and the Village’s position on this issue.

12. On March 21, 2011 Maureen Crump (Barrington Countryside Park District Commissioner) and I went to Village Hall to meet with Don Schuman to seek clarification of and discuss Village setbacks for buildings, which was going to be discussed at the ZBA meeting that evening. During the discussion with Don Schuman that day, I raised the issue of whether Oakwood Farm complied with the Home Occupation Ordinance. Don Schuman told me in response that he did not think that Oakwood Farm was a home occupation.

13. I have been provided a copy of and have read the March 29, 2011 letter from George Lynch to Stephen C. Schulte and Ken Michaels regarding 350 Bateman Road (LeCompte’s Property/Oak Wood Farms) (“Lynch letter”). This letter states: “This is to advise you that the Village of Barrington Hills has made a determination that the letter of Donald Schuman, the Building and Code Enforcement Officer, dated March 15, 2011 to Dr. and Mrs. LeCompte represents a final and official decision of the aforesaid officer.” During the Village Board of Trustees meeting on March 28, 2011 (the evening before the Lynch letter was sent on March 29, 2011) the Trustees did not make a determination that the Schuman letter was a “final and official decision” of Mr. Schuman, the Trustees did not take a vote on this issue, and the Trustees did not authorize the sending of a letter with that language quoted above in the Lynch letter. I was never advised who it was at the Village “made a determination” referred to in the March 29, 2011 Lynch letter.

14. At no time during the Village Board of Trustees meeting on March 28, 2011 or any time prior thereto did President Abboud ever advise me or to my knowledge the

other Trustees that he had a meeting on February 21, 2011 or on any other date with Benjamin LeCompte, Paddy McKeivitt, and Dan Lundmark to discuss whether Oakwood Farm is a home occupation; nor did President Abboud tell us that on or before March 1, 2011 he communicated to Dan Lundmark what needed to be included in an affidavit from the LeComptes regarding compliance of Oakwood Farm with the Home Occupation Ordinance; nor did President Abboud provide a copy of the March 4, 2011 LeCompte affidavit or a copy of the March 15, 2011 Schuman letter to me as a Trustee.

15. Neither the Schuman letter dated March 15, 2011 nor the Lynch letter dated March 29, 2011 were ever reviewed by, authorized, or approved by the Village Board of Trustees prior to issuance of those letters and during the April 25, 2011 Village Board of Trustees meeting (my last meeting), the Village Board of Trustees did not subsequently authorize or approve the issuance of the Schuman letter or the Lynch letter. The "determination" in these letters that "it appears that the use of Oakwood Farm is a Home Occupation" is totally in contradiction with the intent, purpose, and interpretation of the Home Occupation Ordinance by the Village while I was a Village Trustee between April 2007 and April 2011. The letter dated February 15, 2011 from Douglas Wambach, Village Counsel, to Ken Michaels, counsel for the LeComptes (Ex. 1), is accurate and sets forth the Village's position on commercial horse boarding operations at Oakwood Farm which is owned by the LeComptes when Mr. Wambach wrote: "It is and has been the Village's position that Oakwood Farms does not comply with the requirements of the home occupation provisions of the Village's zoning code."

CERTIFICATION PURSUANT TO SECTION 1-109

Under penalties provided by law, pursuant to section 5/1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this affidavit are true and correct.

Beth Mallen
Beth Mallen

Subscribed and sworn to before me, the undersigned notary public, this 18th day of May, 2011.

April L. Powers
Notary Public



My Commission Expires:

2-10-2015

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JAMES J. DRURY III, as agent of the Peggy D.
Drury Declaration of Trust U/A/D 02/04/00, and
MICHAEL J. MCLAUGHLIN,

Plaintiffs,

-against-

BENJAMIN B. LECOMPTE, CATHLEEN B.
LECOMPTE, AND NORTH STAR TRUST CO.,
AS SUCCESSOR TRUSTEE OF HARRIS BANK
BARRINGTON N.A., AS TRUSTEE UNDER
TRUST NUMBER 11-5176,

Defendants.

Case No. 11-CH-03852

Hon. Sebastian T. Patti

SWORN AFFIDAVIT OF MICHAEL P. HANNIGAN

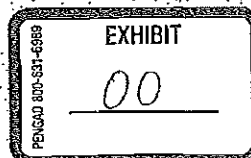
I, MICHAEL P. HANNIGAN, of Barrington Hills, Illinois, hereby declare and affirm:

1. I am over 18 years old and otherwise competent to make this Affidavit. If sworn as a witness, I could competently testify to the matters set forth herein.

2. I have been a resident of the Village of Barrington Hills, Illinois ("Village") from 2008 to the present.

3. I was present as a Village resident at the Village of Barrington Hills Board of Trustees meeting on May 23, 2011. During this meeting there was a discussion regarding Oakwood Farms and I actively participated in the discussion along with the Village Board,

Village President Robert Abboud and Village Counsel Douglas Wambach.



4. During the May 23, 2011 Board meeting, President Abboud stated the decision to issue a compliance letter to Oakwood Farms regarding its purported compliance with the Village's Home Occupation Ordinance was made by President Abboud alone based on his opinion that Village Code authorized him as President to enforce and interpret Village ordinances. Village Counsel Douglas Wambach disagreed with President Abboud's opinion that the President was authorized to interpret Village ordinances.

5. Following the May 23, 2011 Village Board meeting, I prepared a letter dated June 3, 2011 memorializing the discussion at that Village Board meeting regarding Oakwood Farms and another matter that was of concern to me. In my June 3, 2011 letter to President Abboud, I requested that my letter be made part of the official minutes of the Board meeting.

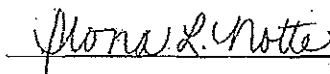
6. A true and correct copy of my letter dated June 3, 2011 to President Abboud is attached to my Affidavit as Exhibit 1. A copy of my letter was also sent to Village Counsel Douglas Wambach.

CERTIFICATION PURSUANT TO SECTION 1-109

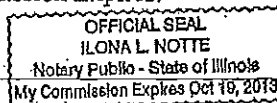
Under penalties provided by law, pursuant to section 5/1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this affidavit are true and correct.


Michael P. Hannigan

Subscribed and sworn to before me, the undersigned notary public, this 3rd day of June, 2011.


Notary Public

My Commission Expires:



June 3, 2011

Via Email president@barringtonhills-il.gov

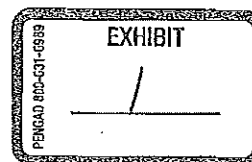
Robert G. Abboud
Village of Barrington Hills
112 Algonquin Road
Barrington Hills, IL 60010-5199

Dear Mr. Abboud:

As you know, along with several other residents, I attended the Village Board of Trustees meeting on Monday, May 23, 2011. Unfortunately, and to the great detriment of Village residents, the Board has continued its policy of not stenographically recording Board meetings. As a result, I write to record what occurred during a portion of the meeting relating to Oakwood Farms. I ask that you include this letter as part of the official minutes of the meeting.

During the Oakwood Farms discussion, you stated that the decision to issue a compliance letter to Oakwood Farms, indicating its purported compliance with the Village's Home Occupation Ordinance, was yours alone as President. You also stated your opinion that a Village Code authorized you as President not only to enforce, but also to "interpret" Village ordinances. Notably, the Village's counsel, Doug Wambach, who was also present at the May 23 meeting, disagreed with your opinion that as President you alone were authorized to interpret Village ordinances. In any event, you made clear that the decision to issue a compliance letter to Oakwood Farms was, in fact, yours and yours alone. Of course, we know that there is no record of the Board ever having voted on the issuance of a compliance letter to Oakwood Farms, which is consistent with your statements at the May 23 meeting.

You also explained that you received legal advice from Village counsel before causing the compliance letter to be issued to Oakwood Farms. You said this advice was oral, not in writing. This was an interesting statement on your part because the compliance letter you caused to be issued to Oakwood Farms was directly at odds with the letter sent by Village counsel Wambach to Oakwood Farms on February 15, 2011. In that letter, counsel Wambach stated, "It is and has been the Village's position that Oakwood Farms does not comply with the requirements of the home occupation provisions of the Village Zoning Code." When I asked you about this inconsistency, you explained that counsel Wambach's letter was not wrong and not inconsistent with the compliance letter, but rather that the facts had changed after Mr. Wambach's letter. Specifically, you stated that after Mr. Wambach's letter, Oakwood Farms informed the Village that the primary purpose of the property on which it sits was no longer agricultural, but rather, its primary purpose was residential.



Submitted On Behalf of Tom Burney - Drury

I have been unable to locate any evidence of Oakwood Farms asserting that the primary purpose of the land on which it sits is no longer agricultural, but rather residential. Perhaps you can identify something in the public record where Oakwood Farms has taken that position, as you stated. Otherwise, there would seem to be no legitimate explanation for why the compliance letter contradicts, so starkly, the opinion expressed in counsel Wambach's February 15 letter to Oakwood Farms.

There were many other items discussed at the May 23 Board meeting. For example, you attempted to explain that the Board's authorization of the purpose of a new police car in August 2010 was followed by your issuance of a check in payment for the car. It appears from public records, however, that the opposite is true. It appears that a check for the police car was cut some 30 days before the Board voted on the authorization for the purchase of the car. Unfortunately, your fanciful explanation for this situation left much to be desired.

Once again, I would stress that the residents of our Village deserve to have Board meetings recorded stenographically. It is disappointing that the creation of an adequate public record of Village affairs requires vigilant monitoring by residents.

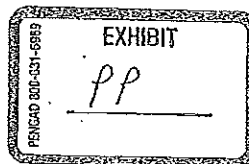
Very truly yours,

Michael P. Hannigan

cc: Douglas E. Wambach

1-5-4: POWERS AND DUTIES OF PRESIDENT:

The President is the chief executive officer of the Village, and shall perform all duties required of him by statute or ordinance. He shall be responsible for the enforcement of all laws and ordinances. He shall supervise the executive officers of the Village, and have the power and authority to inspect all books and records kept by any officer of the Village at any time. (1977 Code)



1-5-9: BOARD OF TRUSTEES:

The board of trustees shall consist of the president and trustees. The president, or the president pro tem, shall preside at all meetings of the board of trustees. (1977 Code)

1-5-12: ORDINANCE PASSAGE PROCEDURE:

(A) The procedure for the passage of an ordinance shall be as follows: An ordinance may be introduced by any member of the board of trustees. When first introduced, said ordinance shall be read to the board of trustees by the clerk and a motion shall be made to have the same engrossed by the clerk upon the records of the proceedings of the meeting at which said proposed ordinance is introduced. The ordinance may then be referred to the proper committee for consideration and report, or may be called up for passage at the meeting at which it was introduced, or any subsequent meeting, when it shall again be read. The voting upon the passage of an ordinance shall be by ayes and nays, and the village clerk shall call upon each trustee and record his or her vote. If a majority of the trustees present constituting a quorum to do business shall vote aye, said ordinance shall be declared passed. If a tie vote results, the president shall cast the deciding vote and declare the result thereof. If the president shall approve of an ordinance, he shall sign it.

(B) Any ordinance imposing any fine, penalty, imprisonment, or forfeiture, or making any appropriation, shall: 1) be printed or published in book or pamphlet form, published by authority of the corporate authorities, or 2) be published at least once, within ten (10) days after passage, in one or more newspapers published in the village, or if no newspaper is published there, then in one or more newspapers with a general circulation within the village. (Ord. 57-1, 4-25-1957; amd. 1977 Code)