

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DuPAGE COUNTY, WHEATON, ILLINOIS

THE VILLAGE OF WOODRIDGE, ILLINOIS, )  
a municipal corporation, )

Plaintiff, )

vs )

NO. 2005 ED 000064

BOARD OF EDUCATION OF COMMUNITY )  
HIGH SCHOOL DISTRICT 99, a body politic and )  
corporate, *et al.*, )

Defendants. )

**PLAINTIFF'S MOTION IN LIMINE NO. 8 FOR THE COURT TO CONDUCT AN *IN CAMERA* HEARING TO DETERMINE WHETHER DEFENDANT CAN PRESENT SUFFICIENT EVIDENCE OF THE REASONABLE PROBABILITY OF REZONING**

NOW COMES Plaintiff, THE VILLAGE OF WOODRIDGE, by and through its attorneys, SCHIROTT & LUETKEHANS, P.C., and moves this Honorable Court *in limine* for an *in camera* hearing to determine whether Defendant has sufficient evidence to present its theory of reasonable probability of rezoning to the jury. In support, Plaintiff states unto this Honorable Court the following:

1. This is an eminent domain case wherein the appraisers for District 99 have predicated their opinions as to the value of the property on a highest and best use which requires a rezoning of the subject property.

2. The subject property is currently zoned R1 in the Village which allows one detached single-family dwelling per acre.

3. Defendant's appraisers, although somewhat varied, have opined that there is a reasonable probability of rezoning that would allow for a mixed development of single-family

attached and detached housing products with gross densities of approximately four (4) to ten (10) units an acre.

4. Plaintiff asserts that Defendant cannot demonstrate sufficient evidence that there is a reasonable probability of obtaining a rezoning to permit their highest and best use of the property. Accordingly, the appropriate procedure is to conduct an *in camera* hearing. *See, e.g., Illinois State Toll Highway Authority v. Heritage Standard Bank and Trust Co.*, 250 Ill. App. 3d 665, 681, 619 N.E.2d 1321, 1331-32 (2d Dist., 1993); *Oak Brook Park District v. Oak Brook Development Co.*, 170 Ill. App. 3d 221, 230, 524 N.E.2d 213, 219 (2d Dist. 1988); *Lake County Forest Preserve Dist. v. Bank & Trust Co. of Arlington Heights*, 106 Ill. App. 3d 856, 859, 436 N.E.2d 237, 239-40 (2d Dist. 1982).

5. As there may be several witnesses called at the *in camera* hearing, the hearing may take more than one day to complete and, therefore, the Court may want to conduct said hearing prior to impaneling a jury so as to avoid inconvenience to the jury.

WHEREFORE, Plaintiff, THE VILLAGE OF WOODRIDGE, moves this Honorable Court for entry of an order directing the parties to conduct an *in camera* hearing to determine whether Defendant has sufficient evidence to present its theory of reasonable probability of rezoning to the jury and providing such other and further relief as this Court deems equitable and just.



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