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Subject: Long Grove - Reconsider Philip Estates in Light of U.S. Supreme Ct. Decision
Date: Saturday, August 14, 2021 1:51:44 PM

Ladies and Gentleman:

By passing Ordinance 2021-R-XX amending a special use permit for Philip Estates subdivision, each of you laid the foundation for the unauthorized use or taking of our (and others) property. This was done by you ratifying PE's irregular potable water and sewer plan requiring access to dig-up and damage our property as an integral part of the permit. This also included the perpetual use of our land and piping for unaffiliated third parties, and not requiring due amendment to our HOA declaration. Without your vote no such unauthorized use or access would arise toward the diminution of our property value versus unaffected property.

In doing so you ignored the unambiguous language of the Village's own special use permit ordinance (i.e., 5-1--17(E)(1)), and Glenstone HOA's record declaration in your possession. In addition, it was claimed for your refusal to investigate and pursue our well-founded PE/Glenstone criminal complaint, you were "constitutionally unable to expend public resources to advance the private interests that are [ours] to assert", effectively washing your hands of the problem you made and also, law enforcement responsibility.

U.S. Supreme Court Acts to Limit Government Unlawful Infringement on Property Rights

<https://www.natlawreview.com/article/supreme-court-finds-fifth-amendment-taking-state-regulation-granting-access-to>

It now comes to pass that the Supreme Court of the United States (in *Cedar Point et al. v Hassid et al.*, 923 F. 3d 524*) has decided such action as yours constitutes a "per se taking" under the same constitution you cite and swore to support. No matter the artifice employed by you, what you did impairs and undermines our unfettered Fifth and Fourteenth Amendment right to exclude trespassers from our property or solely to grant them an easement, as our property alone, by you authorizing PE and Glenstone's clearly unlawful plan to invade, damage and take our property. Your official action also leaves us in a weakened position to defend our property rights.

Reconsideration Required

Given the SCOTUS 6-3 decision of June 23, 2021 not factored into your vote, we're asking that you reconsider your unconstitutional action and ordinance violation, and immediately vote to rescind your prior approval to come into compliance with both. This is because it is now clear you have put Long Grove taxpayers on the hook, as well as previously claiming you are constitutionally unable to expend public resources to advance private interests. In this case those interests being PE and Glenstone

HOA's, whose problem it is now theirs alone to fix.

Unless it is your (together with the aforementioned co-conspirators) intention unlawfully to profit at our expense by taking our property we alone own, you will do this without delay. This request should **not** be considered a threat of probable or imminent litigation, which we would like to avoid at all costs as I hope you would too given the crystal clarity of the SCOTUS decision.

Please make this email and your timely written reply part of public comments and the Philip Estates' permanent record.

Regards,
Phil and Cynthia Goldberg

* "*Cedar Point et al. v Hassid et al.*, 923 F. 3d 524, decided June 24, 2021- "...[Defendant's] access regulation appropriates a right to invade [Plaintiff's] property and therefore constitutes a *per se* physical taking. Rather than restraining [Plaintiff's] use of their own property, the regulation appropriates for the enjoyment of third parties... the owners' right to exclude. The right to exclude is "a fundamental element of the property right." *Kaiser Aetna v. United States*, [444 U. S. 164](#), 179–180. The Court's precedents have thus treated government-authorized physical invasions as takings requiring just compensation. As in previous cases, the government here has appropriated a right of access to private property. Because the regulation appropriates a right to physically invade [plaintiff's] property—to literally "take access" [regardless of the preconditions]—it constitutes a *per se* physical taking under the Court's precedents. Pp. 7–10. ...The right to exclude is not an empty formality that can be modified at the government's pleasure..."