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-----Original Message-----

From: Gail Hagen [REDACTED]

Sent: Monday, October 24, 2022 6:25 PM

To: Mike Tully <mtully@lcfpd.org>

Subject: EXTERNAL: Our response to the Village of Third Lake upcoming proposal

EXTERNAL EMAIL ALERT: Verify sender before opening links or attachments.

Thank you for your email explaining the Village of Third Lake upcoming proposal to the Planning and Finance Committees. Attached is our response. Please share this with the committees. Please also let me know if you have any questions or concerns.

Gail & Guy Hagen  
[REDACTED]

Date: October 24, 2022

To: Lake County Forest Preserve Planning and Finance Committees

From: Gail & Guy Hagen; [REDACTED], Grayslake

Re: Village of Third Lake 3-tiered Request

We are residents of Third Lake West Shore. We are not in the Village of Third Lake, so while we have non-voting rights regarding their actions, we are impacted by their governance of the lake. We have the following comments regarding their upcoming 3-tier proposal for an Intergovernmental Agreement for forest preserve owned lake bottom on Third Lake:

REQUEST	OUR COMMENTS
Regulate the lake	<p>We cannot support this proposal without having more specific details clarified and documented prior to approval.</p> <p>Our fear is that if the Village is given carte blanche control of the area, they will be allowed to issue citations to fisherman or other boaters for currently undefined who are using this public space.</p>
Treat the Forest Preserve District's portion of the lake bed (for invasive species).	<p>We strongly support this proposal.</p> <p>This area is currently used for a water ski course and as the skiers travel back for forth (against Village Guidelines) from Mariner's Cover to the West Shore, they bring invasive weeds with them and we now experiencing an infestation of invasive weeds on the West Shore.</p>
Install buoys, anchored to the District's lake bed, for the purpose of marking a slalom water ski course.	<p>While we neutral regarding your allowing the ski course to remain on Forest Preserve property, but are not in favor of granting the Village carte blanche authority to regulate this public space.</p> <p>As we understand and observe, there are only four people who use the slalom water ski course. The course takes up a significant area in front of the</p>

REQUEST	OUR COMMENTS
	<p>Forest Preserve that limits access in and around this otherwise public area to fisherman, kayakers and other boaters. Additionally, we have observed that the skiers are not always in compliance with Illinois laws and Village Ordinances / Guidelines as noted below (reported to Village, yet violations continue):</p> <p>ILLINOIS LAWS:</p> <ol style="list-style-type: none"> <li>1. Not displaying the required flag while towing.</li> <li>2. Maintain a reasonable distance from other persons or property.</li> <li>3. Colliding with person or property (they ran over our buoy last year)</li> </ol> <p>VILLAGE:</p> <ol style="list-style-type: none"> <li>4. Ordinance: Skier and boat in no wake / personal property area.</li> <li>5. Guideline: Driving boat clockwise (as opposed to the required counterclockwise).</li> </ol>

Thank you for considering our points of view when determining the outcome of these critical issues.

Guy and Gail Hagen

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Thank you Patricia. I will include this email as correspondence related to the request by the Village of Third Lake for an Intergovernmental Agreement at the upcoming Operations Committee (October 31) and Finance Committee (November 3) meetings.

Mike

Mike Tully  
Chief Operations Officer  
Lake County Forest Preserves  
1899 W. Winchester Road  
Libertyville, Illinois 60048  
(847) 968-3415 office  
(847) 489-6136 cell  
mtully@lcfpd.org

-----Original Message-----

From: Patricia Weiss [REDACTED]  
Sent: Monday, October 24, 2022 2:21 PM  
To: Mike Tully <mtully@lcfpd.org>  
Cc: Kurt Weiss [REDACTED]  
Subject: EXTERNAL: Village of Third Lake

EXTERNAL EMAIL ALERT: Verify sender before opening links or attachments.

My name is Patricia Weiss, [REDACTED], and I have lived on the unincorporated West Shore of Third Lake since the late 1960's. My family all grew up here and still enjoy the lake, however, the Village of Third Lake is pushing for more regulations and control.

Even though we have now been forced to buy boat stickers from the Village (\$45 per boat, waver runner, pontoon etc.) they do not do any weed control on the West Shore for us. We feel that the problem with invasive weeds and toxic substances that enter the lake from the CLC retention pond and Cherry Creek (formerly known as the AVON-Fremont drainage ditch ) should be addressed by the Forest Preserve since the creek is on FP property but the Village should not gain control over Forest Preserve shoreline under that guise. The fishermen historically fished at the south end because of the weeds and the many fish in that area. They are also restricted from the area by the ski course.

As far as the ski course, it is a hazard to boaters on a busy boating weekend. It monopolizes the south end of the lake and the few (I believe 4 families) who use it scream and use obscene hand gestures to any boat which causes wake even though they are at the legal distance required from the course. Waves caused by many boats on a small circular lake are inevitable. Their early morning runs are a disturbance for all my neighbors towards the south, and they do not observe the rules as far as staying outside our no wake buoys on our shoreline. They are a bunch of bullies!

My family and I are opposed to the Forest Preserve District giving any control of their shoreline to the Village of

Third Lake and opposed to the Forest Preserver District permitting the ski course on their property.

Unfortunately I cannot attend the meetings as I will be out of town, but I wanted to express an opinion. Thank you for listening. Patricia Weiss, [REDACTED]

## Citizen Statement Regarding The Village Of Third Lake Request To Control Forest Preserve Property

October 7, 2022

Dear LCFPD Commissioners/Lake County Board Members,

We the undersigned Lake County residents and property owners hereby request the LCFPD Commissioners/Lake County Board Members to reject in its entirety the Village of Third Lake's written request (attached) to control that part of the Rollins Savanna Forest Preserve that lies within the waters of Third Lake.

### BACKGROUND:

In early 2020 Village of Third Lake government officials began a campaign against the lakebed property owners of Third Lake (and Druce Lake) who reside outside of Village limits, purporting the Village's control over the entire lake in order to collect watercraft permit fees to use the lake. Village officials distributed misleading materials, threatened fines, and trespassed on unincorporated property numerous times in an effort to intimidate life-long unincorporated lakebed property owners into paying this lake usage tax or face fines of up to \$750 for each occurrence. One such incident (there are others) was described in social media as follows.

"My 73 year old MIL lives on Druce- they came during the day and had her so upset she was in tears. Threatening her if she didn't get stickers she would get huge fines..with the sheriff in tow- Then they came again and were walking on our beaches and piers seeing who they could ticket. Kinda crazy over a \$15 sticker that says THIRD lake."

In 2021 two of the Village officials' citations were challenged in the 19th Judicial District Court of Illinois, and both were dismissed by the court. Attached are the court minutes as well as the memo in support of the Motion to Dismiss that was granted for one of the citations. In summary, the 19th District Court confirmed that the Village lake ordinances are not enforceable outside the Village limits.

### CURRENT SITUATION:

Inconsistent with the 19<sup>th</sup> District Court ruling, the Village Mayor now proclaims in writing directly to the LCFPD his authority to tax and regulate all users of the LCFPD Rollins Savannah Third Lake property including any Lake County resident who may wish to portage a watercraft or launch outside the Village limits. The Village Mayor writes:

"We require all motorized watercraft to be registered with the Village. If a watercraft is in the Forest Preserve District and on the lake we require it to be registered. It doesn't matter if it is in your district or ours, it must be registered with the Village."

Additionally, the Village Mayor requests the authority to regulate this LCFPD lake property (i.e. charge permit fees for its use) and to restrict its use to a four-member privately incorporated waterski club. Allowing such a request would effectively disenfranchise not only the private unincorporated lakebed owners of this small lake but all Lake County residents from using this significant portion of the lake. This request is contextually illogical in its entirety. It is a clear violation of the Illinois Supreme Court ruling on recreational use of non-public lake surface water. It follows not only a failed attempt to annex the property in 2021 (Riparian rights included) but also the immediate rejection of an offer by the LCFPD to cost share the chemical treatment of lake weeds.

Citizen Statement Regarding The Village Of Third Lake Request To Control Forest Preserve Property

The Village's request appears to be yet another brazen attempt to take property by a small number of local government officials who are out of touch with the residents of Lake County and the State of Illinois who currently suffer nearly the highest tax burden and state debt in the nation. It occurs at the same time as they collect data to rationalize their own salary increases and expand their payroll. Do not perpetuate this type of take-and-tax hubris by approving the Village's attempt to regulate public property already under state and county regulation.

We therefore request that the LCFPD Commissioners/Lake County Board reject in its entirety the Village's request, and to send a clear message to Village officials to respect the rights of unincorporated property owners as well as those of all Lake County residents, to stop their costly campaign of harassment against these owners, and to respect our judicial decisions.

ATTACHMENTS:

Village Request.pdf

Case Minutes.pdf

Memorandum in Support of Motion to Dismiss.pdf

Respectfully submitted,

Ron Schmitt, 60030  
Art X. Malnowski, 60030  
Mary Ann Malnowski 60030  
Sandra Malnowski 60030  
Beverly Slovick 60030  
Bill Slovick 60030  
Mary E. Leary 60030  
E. Smith 60030  
Rose M. Smith 60030  
Wanda Rodclaus 60030  
M. (Stephan Ryan) 60030

Joseph Till 60048  
Jan Doudell 60046  
Patricia Till 6048  
Helen Dowdell 60046  
Dave West 60040  
G. Thelen 60046  
Joyce Gully 60030  
M. Day 60041  
C. D. 60041

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**From:** Mike Tully  
**Sent:** Wednesday, September 21, 2022 8:38 AM  
**To:** 'Butch Buckley' <[bbuckley@ThirdLakeVillage.com](mailto:bbuckley@ThirdLakeVillage.com)>  
**Subject:** RE: EXTERNAL: RE: EXTERNAL: RE: Meeting

Morning Butch,

I'll be taking this request to the District's Planning Committee on October 31 (1:00 pm at District HQ) and the Finance Committee on November 3 (1:00 pm same location).

You are welcome, but not required, to attend.

Hope you had a good summer.

Mike

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**From:** Butch Buckley <[bbuckley@ThirdLakeVillage.com](mailto:bbuckley@ThirdLakeVillage.com)>  
**Sent:** Thursday, July 7, 2022 10:46 AM  
**To:** Mike Tully <[mtully@lcfpd.org](mailto:mtully@lcfpd.org)>  
**Subject:** EXTERNAL: RE: EXTERNAL: RE: Meeting

EXTERNAL EMAIL ALERT: Verify sender before opening links or attachments.

Hi Mike,  
See comments below.

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**From:** Mike Tully <[mtully@lcfpd.org](mailto:mtully@lcfpd.org)>  
**Sent:** Thursday, July 7, 2022 10:05 AM  
**To:** Butch Buckley <[bbuckley@ThirdLakeVillage.com](mailto:bbuckley@ThirdLakeVillage.com)>  
**Subject:** RE: EXTERNAL: RE: Meeting

Hi Butch,

Looks to me like this is a three tiered request. You are requesting that the District enter into an Intergovernmental Agreement that would result in the Village being allowed to:

- "Regulate" the lake. Not sure what that means exactly. Maybe it's just a general term that incorporates the next two bullets. If there is more to "regulating" than that please let me



know.

We require all motorized watercraft to be registered with the Village. If a watercraft is in the Forest Preserve District and on the lake we require it to be registered. It doesn't matter if it is in your district or ours, it must be registered with the Village.

- Treat the District's portion of the lake bed. I assume you mean for invasive aquatic species. Again, please confirm or clarify.

We only treat for invasive species.

- Install bouys, anchored to the District's lake bed, for the purpose of marking a slalom water ski course.

Correct.

Let me know if I have this right.

Enjoy the day,

Mike

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**From:** Butch Buckley <[bbuckley@ThirdLakeVillage.com](mailto:bbuckley@ThirdLakeVillage.com)>

**Sent:** Friday, July 1, 2022 10:05 AM

**To:** Mike Tully <[mtully@lcfpd.org](mailto:mtully@lcfpd.org)>

**Subject:** EXTERNAL: RE: Meeting

EXTERNAL EMAIL ALERT: Verify sender before opening links or attachments.

Hi Mike,

The Village of Third Lake takes pride in maintaining and regulating Third Lake to maintain a healthy and safe environment for the entire community to use. We periodically treat for invasive species of vegetation so that beneficial native vegetation can grow within the lake. We do not blanketly treat all vegetation. As part of our stewardship of the lakes we require all motorized craft to register with the village to ensure compliance with our rules of the lake and safe practices. The Village is open to formalizing an Intergovernmental Agreement to allow the Village to regulate and treat the lake. One of the items that would be regulated would the installation of a ski course on the south side of the lake that would be located within the boundaries of the Lake County Forest Preserve District. The reason for this location is the wind protection from prevailing winds that come from the southwest. If you need further details please contact me.



Butch Buckley

Mayor

Village of Third Lake

847-223-8422

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**From:** Mike Tully <[mtully@lcfpd.org](mailto:mtully@lcfpd.org)>  
**Sent:** Tuesday, June 28, 2022 2:50 PM  
**To:** Butch Buckley <[bbuckley@ThirdLakeVillage.com](mailto:bbuckley@ThirdLakeVillage.com)>  
**Subject:** Meeting

Hi Butch,

If you are available anytime this week I'd like to stop by village hall. I've got a big map I'd like to put on a table and review with you so I can wrap my head around this whole ski course concern. I'm available anytime tomorrow, Thursday in the a.m., and Friday in the p.m.

*Mike Tully*

**Chief Operations Officer**  
**Lake County Forest Preserves**  
**1899 W. Winchester Road**  
**Libertyville, Illinois 60048**  
**(847) 968-3415 office**  
**(847) 489-6136 cell**  
**[mtully@lcfpd.org](mailto:mtully@lcfpd.org)**

CASE# 20CV00000215 FILED 08/31/2020 STATUS C STATUS DATE 12/08/2020  
TITLE SCHMIDT, RONALD J. ARREST AGENCY TRDL BRANCH CE

DATE: 01/21/2021 TIME: 01:30P ROOM: C404 CALNDR: TRF NOTE: STRICKEN

EVENTS:

STATUS STRICKEN FROM CALL

DATE: 12/08/2020 TIME: 01:30P ROOM: C404 CALNDR: TRF NOTE:

EVENTS:

ENTER AGREED ORDER YES ABSENT  
THIS MATTER HAVING COME BEFORE THIS COURT ON AN AGREED ORDER  
TO NONSUIT THE VILLAGE OF THIRD LAKE COMPLAINT FOR ORDINANCE  
VIOLATION AGAINST DEFENDANT, RONALD SCHMIDT, THE AGREED ORDER IS  
HEREBY ENTERED AND THIS MATTER IS NONSUITED.

DATE: 11/18/2020 TIME: 03:00P ROOM: C404 CALNDR: TRF NOTE:

PRESENT:

ROZENBERG, HELEN S. PRESIDING JUDGE  
ACKER, ANDREW Y. VILLAGE ATTORNEY  
WEINSTEIN, DAVID S. ATY-DEFENDANT  
SCHMIDT, RONALD J. DEFENDANT  
SENER, MARTIN C. ATY-DEFENDANT  
DAVIS, RAMONA COURT REPORTER

EVENTS:

STATUS CONTINUED REMOTE  
OF HEARING  
MOTION OF DEFENDANT GRANTED  
TO DISMISS  
MOTION FOR DISCOVERY YES REMOTE  
21 DAYS TO FILE AMENDED CITATION  
RELEASE YES REMOTE

DATE: 10/28/2020 TIME: 01:30P ROOM: C404 CALNDR: TRF NOTE:

PRESENT:

ROZENBERG, HELEN S. PRESIDING JUDGE  
WEINSTEIN, DAVID S. ATY-DEFENDANT  
SCHMIDT, RONALD J. DEFENDANT  
SENER, MARTIN C. ATY-DEFENDANT

EVENTS:

MOTION OF DEFENSE YES REMOTE  
HEARING ON MOTION TO DISMISS CONTINUED REMOTE  
SET STATUS DATE YES REMOTE  
RELEASE YES REMOTE

DATE: 09/30/2020 TIME: 01:30P ROOM: C404 CALNDR: TRF NOTE:

CASE# 20CV00000215 FILED 08/31/2020 STATUS C STATUS DATE 12/08/2020  
TITLE SCHMIDT, RONALD J. ARREST AGENCY TRDL BRANCH CE

PRESENT:

ROZENBERG, HELEN S.	PRESIDING JUDGE
CASALE, ANTHONY J.	VILLAGE ATTORNEY
WEINSTEIN, DAVID S.	ATY-DEFENDANT
SCHMIDT, RONALD J.	DEFENDANT

EVENTS:

HEARING ON MOTION TO DISMISS	CONTINUED REMOTE
MOTION OF DEFENSE	YES REMOTE
DEFENSE GIVEN 7 DAYS TO FILE BRIEF; VILLAGE GIVEN 7 DAYS TO FILE RESPONSE	
RELEASED ON CONTINUED BOND	YES REMOTE

DATE: 09/16/2020 TIME: 01:30P ROOM: C404 CALNDR: TRF NOTE:

PRESENT:

ROZENBERG, HELEN S.	PRESIDING JUDGE
CASALE, ANTHONY J.	VILLAGE ATTORNEY
WEINSTEIN, DAVID S.	ATY-DEFENDANT
SCHMIDT, RONALD J.	DEFENDANT

EVENTS:

ARRAIGNMENT	YES REMOTE
NOT GUILTY PLEA	YES REMOTE
HEARING DATE SET	YES REMOTE
MOTION OF DEFENSE	YES REMOTE
RELEASED ON CONTINUED BOND	YES REMOTE



as follows:

“The corporate authorities in all municipalities have jurisdiction over all waters within or bordering upon the municipality, to the extent of 3 miles beyond the corporate limits, but not beyond the limits of the State.” 65 ILCS 5/7-4-4 (1871)

There is no legislative history dating back to this enactment and there is only one reported case found wherein an Illinois court considered the statute, and that case dealt with the regulation of train whistles on railroad trestle bridges. However, this statute was enacted long before anyone ever heard of the public restriction or regulation of the use of private property – zoning. More recently, with the adoption of the Illinois Municipal Code, municipalities were granted the power to restrict the use of private property, to zone, but such power was limited in scope. The power to zone was specifically limited to within the corporate limits of the municipality if the county in which the municipality exists has adopted a zoning ordinance. See, 65 ILCS 5/11-13-1. Specifically, the Municipal Code states:

“No municipality shall exercise any power set forth in this Division 13 outside the corporate limits thereof, if the county in which such municipality is situated has adopted "An Act in relation to county zoning", approved June 12, 1935, as amended.”

In 1992, the Illinois Appellate Court, Third District, considered this apparent inconsistency in the law and found that a general grant of “jurisdiction” does not supersede a specific prohibition against the exercise of zoning authority beyond the corporate limits of a

municipality. *County of Will v. City of Naperville*, 266 Ill. App. 3rd 662, 589 N.E.2d 1090 (3rd Dist. 1992). The court reasoned that property owners holding title to property located outside a municipality attempting to restrict or regulate the use of that property would have no recourse with respect to any such action, as they have no right to vote or otherwise participate in the political process which resulted in the adoption and enforcement of the ordinance. Such persons, like the defendant here, are entirely disenfranchised with respect to the regulation of the use of their property. The Municipal Code prohibits such action because it would clearly offend the statutory scheme set up in the Code which makes competing regulation of the same property by different municipalities abhorrent. What is there to stop a neighboring village from adopting a similar use restriction or regulation prohibiting the free use of private property without a registration sticker?

In an effort to address this inconsistency between the ancient “three-mile, over water” jurisdiction statute found in 65 ILCS 5/7-4-4, in 2007 the Illinois legislature amended the statute so that it now reads:

“The corporate authorities in all municipalities have jurisdiction over all waters within or bordering upon the municipality, to the extent of 3 miles beyond the corporate limits, but not beyond the limits of the State. **Nothing in this Section shall be construed to authorize a municipality to exercise zoning power or otherwise restrict the use of private property outside of the corporate limits of the municipality.**” (Emphasis added.)

That is, the legislature specifically limited the statute, as it relates to the restriction on the use of private property, to lands (and waters) located within the municipality. In this regard, the legislative history is particularly illustrative. The Senate sponsor of the bill, Senator John

Cullerton, stated at the final reading of the bill before it was approved by the Senate:

“We’re just making it clear that...[municipalities] cannot regulate the zoning of areas that is not within their municipalities. So they can’t make wake rules or horsepower restrictions or permit fees...” *Transcript of Third Reading and Final Vote*, HB3441 (2007)

To be sure, the state of the law prior to the 2007 amendment of Section 5/7-4-4 was such that a general grant of jurisdiction did not trump the prohibition against the exercise of extraterritorial regulation of private property found in the Municipal Code. *County of Will v. City of Naperville*, Supra, at 1092. However, Section 5/7-4-4 was amended to make it clear – **on the face of the statute** – that this section of the Code could not be used – as threatened by several municipalities at the time – as a basis to extend a municipality’s power to regulate the use of private lake property, such as defendant SCHMIDT’S, beyond the corporate limits of the municipality. The whole point of the amendment was to protect citizens from protracted litigation over use regulations or restrictions or from prosecution for violating use regulations and restrictions imposed by municipalities in which they do not reside or in which their property is not situated. The amendment further makes it clear on the face of the statute that the amendment applies to **any restriction** on the use of private property.

## **2. The Third Lake Village Ordinance, As Applied to Property**

### **Outside the Municipality, Has No Legitimate**

### **Statutory Basis and is Therefore Void and Unenforceable**

Unfortunately, there seems to be some discrepancy in the Ordinance that was published on the website of the Village of Third Lake as compared to earlier versions of the Ordinance. That is, the currently available Ordinance cites, as the legislative basis for its authority to pass



the ordinance, four Illinois statutes: Two provisions of the Illinois Municipal Code, 65 ILCS 5/11-44-3, whereby municipalities may regulate and prohibit watercraft used about a harbor or within the municipality's jurisdiction and 65 ILCS 5/11-44-1, whereby municipalities may regulate public and private water-landing places, wharves, docks, canals, slips and levees; and two provisions of the Illinois Boat Registration and Safety Act, 625 ILCS 45/5-7, whereby municipalities may designate certain water areas as restricted areas and 625 ILCS 45/8-1, whereby municipalities may adopt ordinances relating to the operation and equipment of watercraft. None of the statutes cited in the subject village ordinance grant a municipality jurisdiction. Nowhere in the currently available version of the Ordinance is there any reference to the amended “over-water” jurisdiction statute. The only statute in existence which purports to grant a municipality extraterritorial jurisdiction over water is 65 ILCS 5/7-4-4, and that authority is limited to a general grant of jurisdiction. That is, a municipality may exercise jurisdiction to enforce **state laws**, such as the Illinois Criminal Code, the Illinois Boat Registration and Safety Act, and other potentially applicable state statutes – but **may not** exercise its own zoning power or otherwise attempt to restrict the use of private property beyond the corporate limits of the municipality (See, 65 ILCS 5/7-4-4.)

Neither of the cited provisions of the Illinois Municipal Code grant an Illinois municipality any jurisdiction. They merely state that, as to waters within their jurisdiction, a municipality may regulate the use of watercraft and may regulate “water landing places, wharves, docks, canals, slips and levees.” The grant of jurisdiction is found in 65 ILCS 5/7-4-4, but that jurisdiction is limited, as respects private property, to waters within the corporate limits of the municipality.

Similarly, neither of the cited provisions of the Illinois Boat Registration and Safety Act

grant a municipality any jurisdiction. They merely state that, as to waters within their jurisdiction, a municipality may designate certain water areas as restricted areas and may adopt ordinances relating to the operation and equipment of watercraft. As to the Boat Registration and Safety Act, there is no specific grant of jurisdiction found in that statute.

The earlier versions of the Ordinance stated, as a statutory basis for the Ordinance, and in addition to the four statutory provisions described above, the three-mile over water jurisdiction statute found at 65 ILCS 5/7-4-4. For some reason, the final version of the Ordinance did not include that statutory reference – perhaps in recognition of its clear prohibition on the exercise of extraterritorial jurisdiction. A copy of the current version of the Ordinance is attached hereto as Exhibit “A”.

In an apparent admission that none of the statutes cited in the Ordinance in question provide any statutory basis for the exercise of extraterritorial jurisdiction, the Mayor of Third Lake has stated, in an Affidavit filed in another Ordinance Citation case, that – as to property outside the village limits – the statutory basis for the Ordinance is 65 ILCS 5/7-4-4. (See the Affidavit of Rodney Buckley, Mayor of the Village of Third Lake, Illinois, filed in the currently pending case of Village of Third Lake v. Sarah Oglesby, Case No. 20 CV 214, Ticket No. 00634, presently pending before Judge Helen Rozenberg, a copy of which is attached hereto as Exhibit “B”.) As discussed earlier, that statute – on its face – does not authorize but **prohibits** the exact exercise of municipal authority attempted by the Village of Third Lake in its ill-advised Ordinance.

### **3. The Citation/Complaint Does Not State a Violation of the Subject Ordinance**

A simple reading of the subject Ordinance makes it clear that the Citation issued to the

defendant, SCHMIDT, fails to state a violation of the Ordinance. The Citation states the location of the violation as the “West Shore of Third Lake” and is addressed to the defendant at the location of the alleged violation, which is “35041 Linden Ave., Grayslake, IL.” See, Citation 00628. Both references refer to property which is outside the jurisdiction of the Village of Third Lake. The Ordinance in question provides, in pertinent part, as follows:

“SECTION ONE: Registration.

A. Registration required. Any recreational watercraft which is used on any waters within the jurisdiction of the Village must be registered with the Village. Registration stickers must be applied to the craft's bow, starboard side, at the top of the hull and in plain view.”

\* \* \*

F. Non-Resident Fees. Non-resident guest passes may be purchased for a three (3) day period for \$55.00.”

The Ordinance in question calls for the purchase and display of a registration sticker on watercraft used on “...waters within the jurisdiction of the Village...” and the alleged basis for asserting that the Defendant’s property whereupon the alleged violation occurred was within the “jurisdiction of the Village” is the very Act which **prohibits** the extension of such jurisdiction. As stated above, the “jurisdiction” of the Village, as regards the regulation and restriction of use of private property, ends at the corporate limits of the municipality. As the location of the citation is clearly **outside** the corporate limits of the municipality, the location of the citation is **outside** the jurisdiction of the Village.

As a final note, it must be shown that the enforcement of the subject Ordinance against a non-resident such as the Defendant is particularly egregious in that, in order to comply with the

Ordinance, the Defendant would be obliged to pay the sum of \$55 to the Village, in person, **every three days** in order to use his own property. Over the course of any given boating season of five months in duration, such accumulated charges could amount to many thousands of dollars. This onerous cost to merely use one's private property can be seen as nothing but a tax on the property of the Defendant by a Village in which he doesn't reside and from which he is completely disenfranchised. In any event, the Ordinance simply can't be read to include property outside the corporate limits of the Village without some objective legal basis for the exercise of extraterritorial jurisdiction. There is none.

In conclusion, since the attempted application of the subject Ordinance to the Defendant is prohibited by the Illinois Municipal Code and is therefore void and unenforceable, and since the Citation/Complaint fails to state of violation of the Ordinance, the charge in question does not state an offense and the case against the Defendant should be dismissed.

Respectfully submitted,

**THE LAW OFFICE OF DAVID S. WEINSTEIN, P.C.**  
Attorneys for Defendant

BY: \_\_\_\_\_  
DAVID S. WEINSTEIN  
Attorney at Law

**CLAUSEN MILLER, P.C.**

BY: \_\_\_\_\_  
MARTIN C. SENER  
Attorney at Law