

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RANDALL J. PALMER,

Plaintiff,

**PLAINTIFF'S DEMAND FOR
PRODUCTION OF DOCUMENTS**

vs.

CITY OF SARATOGA SPRINGS and
CITY OF SARATOGA SPRINGS
PLANNING BOARD,

Civil Action No.: 99-CV-1091 (NAM/DRH)

Defendants.

Pursuant to Rule 34, Federal Rules of Civil Procedure, plaintiff, by his attorneys, Hinman, Howard & Kattell, LLP, hereby demands that defendants produce the following documents in the possession, custody and control of the defendants or their attorneys for inspection and copying by plaintiff's counsel and employees of defendant's counsel at the offices of Hinman, Howard & Kattell, 700 Security Mutual Building, 80 Exchange Street, Binghamton, New York 13901-3490, within 30 days after the date of service of this Demand.

INSTRUCTIONS FOR ANSWERING

1. Production can be accomplished by mailing the documents within the time specified to counsel for plaintiff.

2. The documents requested for production include those in the possession, custody or control of defendants, their agents, representatives or attorneys.

3. Unless otherwise indicated, these requests refer to the time, place and circumstances described in the complaint and counterclaim.

4. The terms "documents" or "documentation" refers to all writings of any kind, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise, including without limitation, correspondence, memoranda, notes, diaries, statistics, letters, materials, orders, directives, interviews, telegrams, minutes, reports, studies, statements, transcripts, summaries, pamphlets, books, inter-office and intra-office communications, bulletins, printed matter, teletype, telefax, worksheets and all drafts, alternations, modifications, changes and amendments of any of the foregoing, graphic or aural recordings or representations of any kind including without limitations photographs, charts, graphs, microfiche, microfilm, videotape, records, motion pictures, and electronic, mechanical or electrical recordings or representations of any kind including without limitations tapes, cassettes, cartridges, discs, chips and records.

4. The term "relating to" shall be construed to include the following: referring to, reflecting, concerning, mentioning, pertaining to, evidencing, involving, describing, discussing, responding to, supporting, or contradicting, in whole or in part.

5. In the event that any document called for by these demands has been destroyed or discarded, that document is to be identified by stating:

- (a) the nature of the document;
- (b) any addressor and addressee;
- (c) any indicated or blind copies;
- (d) the document's date, subject matter and the number of pages;
- (e) the identity of the last known custodian of that document; and
- (f) the substance of the document.

6. You are required to produce all of the requested documents which are in the possession, custody or control of you or your attorney, or as to which you have access.

7. If any document called for by or responsive to these demands is not produced on the ground that it is privileged or otherwise claimed to be protected against

production by any rule of law, you shall provide the following information with respect to each such document:

- (a) its date;
- (b) its author;
- (c) a description of its subject matter and physical size;
- (d) all addressees or recipients of the original or any copy thereof;
- (e) the identity of all other persons to whom the contents of the

document have been disclosed; and

(f) the nature of the privilege or other rule of law relied upon and a statement of fact supporting defendant's position with respect thereto.

8. Copies, if authenticated, of the original documents, may be supplied in response.

9. Each request should be responded to separately. A document which is responsive to more than one request may, if the relevant portions are so marked or indexed, be produced and referred to in a later response.

10. Each request refers to all documents that are either known by defendants to exist or that can be located or discovered by reasonably diligent efforts by the defendants.

11. Please note that defendants are under a continuing duty to reasonably supplement the production of documents obtained subsequent to the preparation and filing of a response to each request.

REQUESTS

1. All local laws, ordinances, regulations, resolutions or other pronouncements of either of the defendants, whether or not codified, relating to antennas and/or towers.

2. All local laws, ordinances, regulations, resolutions or other pronouncements of either of the defendants, whether or not codified, relating to the consideration, processing and determination of applications for special use permits.

3. All local laws, ordinances, regulations, resolutions or other pronouncements of either of the defendants, whether or not codified, relating to the consideration, processing and determination of applications for the installation or erection of antennas and/or towers, whether or not the applications is for a "special use

permit". (In other words, if defendants will consider an application for permission to erect a tower pursuant to a site plan or similar procedure, produce the document setting forth said procedure.)

4. Defendants' entire file or files relating to plaintiff's application for a special use permit.

5. All documents relating to plaintiff and/or his application for a special use permit, whether or not contained in the special use permit file.

6. All documents in defendants' possession relating to antennas and/or towers, whether or not generated or produced in connection with plaintiff's application for a special use permit.

7. For the years 1996 through present, defendants' files relating to all applications for special use permits, and all files relating to applications for antennas or towers, whether or not in the form of applications for special use permits. Plaintiff's counsel recognizes that such files may be voluminous, and is willing to inspect such files and designate items for copying at the office of the City Clerk or Planning Department, or other appropriate location designated by defendants.

8. For the years 1996 through present, the minutes of all meetings of the defendant Planning Board. Plaintiff's counsel also recognizes that such minutes may be voluminous, and is willing to inspect such minutes and designate pages for copying at the office of the City Clerk or Planning Department, or other appropriate location designated by defendants.

9. For the years 1996 through present, the minutes of all meetings of the City of Saratoga Springs City Council at which plaintiff, antennas, and/or towers were discussed.

Dated: Binghamton, New York
May 10, 2000

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