



Village of
Lake Isabella
INCORPORATED 1998

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August 29, 2007

Central Michigan District Health Department
Mr. Scott Jones
2012 Preston Avenue
Mount Pleasant, MI 48858

Dear Mr. Jones,

Thank you for the reply to my correspondence from August 8, 2007. I appreciate your time and comments and would like to reply as follows:

In reference to Lake Isabella Golf Estates II, I remember speaking on the phone in late March regarding this matter and forwarding a copy of our map and research to your office. I do ~~not~~ have any recollection or record of a call on April 20, 2007, nor do I have any documentation of what your findings were on this matter. I am interested to know what your records reflect as it is my desire for both of our organizations to be on the same page regarding the number of remaining buildable lots in Lake Isabella Golf Estates II. At your convenience please feel free to call or write with what your review was able to produce.

As to the overall matter of buildability, while it may be your opinion that the Village of Lake Isabella has the ability to have the various restrictions amended the facts surrounding this matter, especially events over the past few years, clearly show otherwise. Amending the restrictions which restrict on-site septic systems can only occur via the written consent of the Michigan Department of Environmental Quality, Central Michigan District Health Department, and the Isabella County Board of Public Works. The Village of Lake Isabella is not party to, or an enforcer of, the restrictions to on-site septic systems at Lake Isabella. If you have documentation that connects the Village of Lake Isabella with any degree of ownership to these restrictions I encourage you to furnish the Village with such documentation. If you recall, the Village of Lake Isabella attempted to amend the restrictions pertaining to Lake Isabella Airpark in June of 2005. This action prompted Assistant Attorney General James E. Riley to issue an opinion stating our action was invalid and that "*no unilateral action by either the current property owners, who purchased these properties subject to restrictions, or the Village of Lake Isabella, may act to waive the plat restrictions.*"

According to the Attorney General's office, the Village of Lake Isabella and our residents do not have the authority to take or initiate action to have the restrictions amended or removed. The only entities allowed under law to take action to amend the restrictions are those public parties that required the restrictions as a condition of approval for the original plat application. This is also stated in the various building and use restrictions governing this matter which specifically state:

"At such time as a public sewage system and water system is available for connection, the restrictions set forth in this paragraph shall cease and shall be null and void. Until

such time as a public sewage and water system is available for connection to the lots in this plat, or, until a written agreement is reached between the Isabella County Department of Public Works, the Central Michigan District Health Department, and the Director of the Michigan Department of Public Health, or their successors, permitting further construction and development of lots in excess of the limitations herein provided for upon reviewing the status of development and the progress towards extending public sewers and water systems; these restrictions and limitations shall remain in full force and effect."

Both the Michigan Attorney General's office and the building and use restrictions in these individual plats make it explicitly clear that the obligation to administer and alter the restrictions lies solely with the public entities that required them as a condition of approval for the original plat application.

Your statement that "there is no one else that can propose such changes, so placing blame on other agencies when the Village has not taken the steps toward making such changes is inappropriate," is insolent and grossly in error. Statements such as this, and the one conveyed to Mr. Simpson, only serve to further disenfranchise those affected by these restrictions. Not only are statements such as yours and the one conveyed to Mr. Simpson incorrect, it allows those affected by the restrictions to falsely believe that there is a quick and simple solution to removing the restrictions. It further misleads people by giving them the assumption that it is the desire of the Village of Lake Isabella for the restrictions to on-site septic systems to remain in place to prevent future development, this is not the case for either assumption.

The Village of Lake Isabella is not an interested or empowered party to the building and use restrictions. As such, stating that we have not taken the appropriate steps to amend them is baseless since the restrictions are not in any manner connected to the Village of Lake Isabella. Nowhere in the contorted history of this matter have I ever been able to find any documentation which expressly gives the Village of Lake Isabella any jurisdictional connection to the building and use restrictions, or associates the Village of Lake Isabella as a party to their creation. In fact, at our meeting in February, you may recall that the DEQ even asserted that the Village of Lake Isabella is not the successor to the Isabella County Board of Public Works in reference to the public works authority for the Village of Lake Isabella.

You may also recall that the Village of Lake Isabella was requested to submit a work-plan in late 2006 outlining our proposed plan to amend the restrictions in Lake Isabella South and Lake Isabella Airpark. Specifically, the CMDHD and DEQ requested that a series of six questions be answered by the Village of Lake Isabella in this work-plan. This work-plan was submitted to both agencies in January of 2007. Neither the CMDHD nor the DEQ made any reference to this proposed work-plan at our meeting in February. One item in the document that is relevant to your statement can be found at the top of page five of the work-plan. Specifically, the work-plan highlighted a recorded deed (Liber 0916 Pages 414-417) which amended the building and use restrictions in Lake Isabella North. This amendment to the restrictions was done at the request of Frank Cooley, a private citizen, not the Village of Lake Isabella.

Finally, in reference to Mr. Nalepka's letter of March 19th. It does offer certain details as to the main areas that need to be reviewed for the restrictions to be amended; it does not offer specifics as to what conditions or data specifically must be presented to have the restrictions amended. His memo does state that there were several agreed to conditions for soil reviews. That, in my opinion, is not an accurate summary of the meeting. There was no agreement

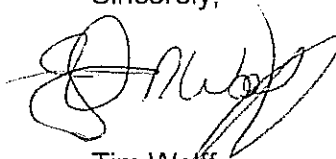
reached between the Village of Lake Isabella and the CMDHD or DEQ on this matter. Rather, the DEQ emphatically stated that these were their requirements that must be satisfied for them to amend the restrictions. These mandates from the DEQ did not take into consideration the work supplied by our professional engineering firm on the various soil conditions in Lake Isabella South and Lake Isabella Airpark. This data, like our submitted work-plan, was not addressed in any relevant manner and has been apparently written off as insufficient.

The reality of this situation is not that the Village of Lake Isabella has failed to act as you have asserted, but rather the CMDHD, DEQ, and Isabella County Board of Public Works have failed to properly administer and periodically review their prohibitions to future on-site septic systems. These restrictions exist and remain due to the action or inaction of those three specific organizations. The Village of Lake Isabella has attempted to work in good faith on this matter and has encountered a bureaucratic stonewall which continues to deny property owners in the Village of Lake Isabella their legal right to develop their property. Nothing contained in the building and use restrictions or applicable law places the obligation of action on the Village of Lake Isabella. In fact the contrary is accurate. The building and use restrictions as referenced above, gives the obligation of reviewing the status of the restrictions to the CMDHD, DEQ, and Isabella County Board of Public Works.

In conclusion, the position of the Village of Lake Isabella remains as follows: The building and use restrictions which restricts on-site septic systems are arbitrary and capricious, the enforcement of which has resulted in a clear regulatory taking by the State of Michigan. The restrictions have been and are currently administered and enforced by CMDHD per the authority of the DEQ and their predecessor the Michigan Department of Public Health. The sole ability to amend the restrictions in any manner lies only with the CMDHD, DEQ, and the Isabella County Board of Public Works. The restrictions are the sole responsibility of these three public entities which have failed to conduct adequate reviews of their necessity since they were enacted over three decades ago. It is the responsibility of the DEQ, CMDHD, and the Isabella County Board of Public Works, not the Village of Lake Isabella, to undertake such action.

The Village of Lake Isabella would like to propose the following as a measure to hopefully find common ground by all parties. We would like to schedule a meeting with Senator Cropsey at his office in Lansing with the CMDHD and the DEQ to mediate the differences our respective organizations have on this matter. It is our hope that by having an unbiased third party present the historical issues that are at play in regard to moving forward on this matter can be overcome for the good of all three of our organizations and the effected property owners in the Village of Lake Isabella.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Wolff', written over a white background.

Tim Wolff
Village Manager

CC: Robert Simpson
George Dunn, Village President
Senator Alan Cropsey