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CORRECTED NOTICE OF APPEAL OF FINAL ADMINISTRATIVE DECISION BY DUPAGE COUNTY BUILDING AND ZONING DEPARTMENT ON JULY 10, 2023 UNDER ILLINOIS ADMINISTRATIVE REVIEW LAW, 735 ILCS 5/3-101 et. seq.

TO: Jim Stran, Building & Zoning Dept. Manager
DuPage County

FROM: Bruce L. Goldsmith, Attorney for
VB BTS II, LLC (Vertical Bridge)

RE: Issuance of the building permit for the construction of a cell tower and access drive based on the Building Code Section 8-112.6 Access Drive and Culvert: Exception

DATE: July 19, 2023

Based on our conversations with Nicholas Alfonso, Assistant State's Attorney, our client VB BTS II, LLC ("Vertical Bridge") is appealing the decision of July 10, 2023, on the grounds that the County can apply the Exception without an access permit being issued by Bloomingdale Township for the following reasons:

It is Vertical Bridge's understanding that the Plans resubmitted have been approved by the County, subject only to the issuance of an Access Permit from Bloomingdale Township. Vertical Bridge takes the position that the Township Access Permit over what the County references to as the "Access Drive" (the land between Lot 171 owned by MSVL and the pavement of Glendale Road/Spring Valley Drive) requires an access permit. Vertical. Bridge contends that this permit is unnecessary as the Township has conceded that no permit is needed over the Access Drive in its Final Administrative Decision of April 12, 2023. The exact reference is as follows: "Based on the submittals, VB BTS II, LLC is free to construct its proposed access road over the northern portion of lot 171 in a manner that will not impact the 66 ' property area dedicated to the Township, subject to any DuPage County building and land use requirements." Nonetheless, the Township continues to argue that it owns the 66' easement area over Lot 171, which the County's GIS Map clearly establishes is only an easement area over LOT 171 and not corporate property of the Township.

In support of this appeal, Vertical Bridge is relying on the following documents:

1. Letter from Mr. Goldsmith to Mr. Alfonso, dated June 26, 2023 *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

2. Letter from Mr. Goldsmith to Messrs. Hoss and Tornatore, dated June 23, 2023 *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

3. Exhibit A to Letter from Mr. Goldsmith to Messrs. Hoss and Tornatore *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*, which is:

    (a) Email chain (3 pages): Mr. Goldsmith's emails to Mr. Alfonso, dated May 1, 2023; Mr. Alfonso's email to Mr. Goldsmith, dated May 1, 2023; and Mr. Alfonso' email to Mr. Goldsmith, dated May 11, 2023 rejecting Vertical Bridge's May 1, 2023 request for a building permit; and

    (b) Email chain (5 pages) : Mr. Goldsmith's email to Mr. Alfonso, dated May 1, 2023; Mr. Alfonso's email to Mr. Goldsmith, dated May 1, 2023, requesting that the letter be resent with the proper date; Mr. Goldsmith's email to Mr. Alfonso, May 1, 2023; Mr. Alfonso's email to Mr. Goldsmith dated May 11, 2023; Mr. Goldsmith's emails to Mr. Alfonso, dated May 17, 2023; Mr. Alfonso's email to Mr. Goldsmith, dated May 18, 2023; and Mr. Alfonso's email to Mr. Goldsmith, dated June 6, 2021.

4. Mr. Goldsmith's letter to Mr. Conway enclosing a check in the amount of $7000 from Vertical Bridge to Bloomingdale Township, with copy of check *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

5. Entrance Permit/Bond Application Re-submittal from Vertical Bridge, which includes the original *application (already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

6. Affidavit of Johnny R. Crawford, dated May 19, 2023 *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso).*

7. Affidavit of Kenneth C. Baumgardt, dated May 22, 2023 *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

8. Building permit package to DuPage County, dated September 24, 2020, which includes Vertical Bridge Plans prepared by Edge and signed on January 26, 2023 that includes a survey correcting the Easement area to show that MSVL owns it and is consistent with the County's GIS map, and the construction access road is asphalt instead of crushed

stone *(already submitted pursuant to email, dated July 18, 2023, from Assistant State's Attorney Nicholas V. Alfonso)*.

9. Final Administrative Decision from Bloomingdale Township with exhibits *(submitted with this Notice of Appeal)*.

10. Snipped Image of current GIS Map page depicting the Subject Property that was published on March 2, 2023 (*submitted with this Notice of Appeal).*