

<b>PAUL JOHN CISAR, et al.</b>	*	IN THE
Plaintiffs,	*	CIRCUIT COURT
<b>v.</b>	*	FOR
<b>F.O. MITCHELL &amp; BRO, et al.</b>	*	HARFORD COUNTY
Defendants.	*	
	*	Case No.: C-12-CV-22-000888

\* \* \* \* \*

**DEFENDANT F.O. MITCHELL & BRO.’S OPPOSITION TO  
PLAINTIFF’S MOTION TO COMPEL AND FOR SANCTIONS AND  
REQUEST FOR A HEARING**

F.O. Mitchell & Bro. (“Mitchell”), by and through their attorneys, Robert S. Lynch, Esquire, David S. Lynch, Esquire, and Stark and Keenan, P.A., oppose Plaintiff’s Motion to Compel and for Sanctions (“Motion to Compel”), stating the following:

**FACTS**

1. On June 7, 2022, Plaintiffs filed, in the Circuit Court for Anne Arundel County, a “Verified Complaint for Injunctive Relief and Declaratory Judgment and Private Action for Nuisance and Public Nuisance” (“Complaint”).

2. On July 15, 2022, Mitchell and Defendant Harford County, Maryland filed separate Motions to Dismiss Plaintiff’s Complaint. The Motions to Dismiss argued that the Complaint should be dismissed because there was a lack of

justiciable controversy, Plaintiffs failed to exhaust administrative remedies, and Plaintiffs failed to state a claim upon which relief could be granted.

3. On August 9, 2022, the Circuit Court for Anne Arundel County issued an Order directing that a hearing be scheduled on Defendants' Motions to Dismiss and Plaintiffs' responses thereto.

4. On September 16, 2022, the Circuit Court for Anne Arundel County issued an Order scheduling a motions hearing for December 19, 2022.

5. On October 17, 2022, one hundred thirty-two (132) days after Plaintiffs filed their Complaint and ninety-four (94) days after Mitchell and the County filed their motions to dismiss, Plaintiff 3P Protect Perryman Peninsula, Inc. propounded requests for production of documents and interrogatories on Mitchell. (Exhibits A-B to Motion to Compel).

6. On November 14, 2022, Mitchell served Plaintiff with "Defendant F.O. Mitchell & Bro.'s Responses to the First Request for Production of Documents to Plaintiff 3P Protect Perryman Peninsula" ("Mitchell's Response to Production") and "Defendant F.O. Mitchell & Bro.'s Answers to the First Set of Interrogatories to Plaintiff 3P Protect Perryman Peninsula" ("Mitchell's Answers"). (Exhibits C-D to Motion to Compel).

7. In Mitchell's Response to Production, Mitchell provided the following response to request no. 1, which response Mitchell incorporated throughout its Response:

F.O. Mitchell & Bro. objects to this Request because Plaintiff seeks to avail itself of discovery based on a lawsuit that is improperly before this Court. Indeed, Plaintiff's lawsuit seeks an advisory opinion regarding development plans (i.e. final plan approval) which have not yet been approved by Harford County. There is no justiciable controversy, and Plaintiff has failed to exhaust its administrative remedies, which, if aggrieved, would include filing a petition for judicial review in the Circuit Court for Harford County after the relevant development plan is approved. Harford County Subdivision Regulations, § 268-28(A). On judicial review, the Circuit Court for Harford County would review the administrative appeal on the record, which procedure explicitly prohibits discovery. Md. Rule 7-208; *Venter v. Bd. of Educ.*, 185 Md. App. 648, 349 (2009) (Rule authorizing the issuance of a scheduling order for civil actions filed in circuit court does not provide a right to discovery when the circuit court is reviewing the decision of an administrative agency). Furthermore, Plaintiffs have inappropriately pleaded an anticipatory private and public nuisance. Such claims are not recognized in Maryland. *Leatherbury v. Gaylord Fuel Corp.*, 276 Md. 367 (1975).

(Exhibit C to Motion to Compel, pp. 2-3).

8. Similarly, in Mitchell's Answers, Mitchell provided the following answer to Interrogatory No. 1, which answer Mitchell incorporated throughout its Answers:

F.O. Mitchell & Bro. objects to this interrogatory because Plaintiff seeks to avail itself of discovery based on a lawsuit that is improperly before this Court. Indeed, Plaintiff's lawsuit seeks an advisory opinion regarding development plans (i.e. final plan approval) which have not yet been approved by Harford County.

There is no justiciable controversy and Plaintiff has failed to exhaust its administrative remedies, which, if aggrieved, would include filing a petition for judicial review in the Circuit Court for Harford County after the relevant development plan is approved. Harford County Subdivision Regulations, § 268-28(A). On judicial review, the Circuit Court for Harford County would review the administrative appeal on the record, which procedure explicitly prohibits discovery. Md. Rule 7-208; *Venter v. Bd. of Educ.*, 185 Md. App. 648, 349 (2009) (Rule authorizing the issuance of a scheduling order for civil actions filed in circuit court does not provide a right to discovery when the circuit court is reviewing the decision of an administrative agency). Furthermore, Plaintiffs have inappropriately pleaded an anticipatory private and public nuisance. Such claims are not recognized in Maryland. *Leatherbury v. Gaylord Fuel Corp.*, 276 Md. 367 (1975).

(Exhibit D to Motion to Compel, p. 3).

9. The County also responded to Plaintiff's requests for production of documents and interrogatories on November 14, 2022. ("Defendant Harford County, Maryland Responses to Plaintiff 3P's First Set of Interrogatories," attached as "Exhibit 1;" "Defendant Harford County, Maryland Responses to Plaintiff 3P's First Request for Production of Documents," attached as "Exhibit 2"). In its responses, the County provided nearly identical objections as Mitchell:

Harford County objects to each interrogatory as improper under the circumstances of this case. Plaintiffs improperly filed this case in Anne Arundel County without exhausting administrative remedies and without waiting for a final administrative decision. Had Plaintiffs followed the required process under established Maryland law, Plaintiffs would have waited for the administrative decision(s), and (if aggrieved) their remedy would have been to seek judicial review in the Circuit Court for Harford County pursuant to Chapter 200 of Title 7 of the Maryland Rules, which proceeding would not provide for discovery under Chapter 400 of

Title 2 of the Maryland Rules. Plaintiffs, therefore, are seeking to use an improper procedure to obtain discovery to which they are clearly not entitled under Maryland law. Harford County will not respond to Plaintiffs' improperly issued document requests and will continue to follow the administrative process as required by law.

(Ex. 1, p. 2).

Harford County objects to each document request as improper under the circumstances of this case. Plaintiffs improperly filed this case in Anne Arundel County without exhausting administrative remedies and without waiting for a final administrative decision. Had Plaintiffs followed the required process under established Maryland law, Plaintiffs would have waited for the administrative decision(s), and (if aggrieved) their remedy would have been to seek judicial review in the Circuit Court for Harford County pursuant to Chapter 200 of Title 7 of the Maryland Rules, which proceeding would not provide for discovery under Chapter 400 of Title 2 of the Maryland Rules. Plaintiffs, therefore, are seeking to use an improper procedure to obtain discovery to which they are clearly not entitled under Maryland law. Harford County will not respond to Plaintiffs' improperly issued document requests and will continue to follow the administrative process as required by law.

(Ex. 2, pp. 1-2).

10. Thereafter, on Friday, November 18, 2018, counsel for Mitchell received an email from Plaintiff's counsel seeking a time to discuss Mitchell's response.

11. The parties' respective counsel engaged in a telephone conversation on November 29, 2022, at 3:00 p.m. regarding Mitchell's responses. During that conversation, counsel for Mitchell explained the rationale for its response, which in

addition to its written responses, included Mitchell's position that it was premature and overly burdensome for all parties to engage in discovery while well-founded Motions to Dismiss remained pending. At the conclusion of that conversation, counsel for Plaintiff assured Mitchell's counsel that he would send an email confirming the content of the conversation. Counsel for Mitchell never received such an email.

12. On December 19, 2022, the Circuit Court for Anne Arundel County transferred this case to the Circuit Court for Harford County.

13. Plaintiffs filed an Amended Complaint on February 1, 2023, and Mitchell filed a Motion to Dismiss the Amended Complaint on February 15, 2023. The County moved to dismiss the Amended Complaint on February 22, 2023. A hearing is not yet scheduled on the motions to dismiss.

14. The next communication from Plaintiff's counsel regarding the discovery dispute between Mitchell and Plaintiff 3P was 3P's filing of this instant Motion to Compel on February 23, 2023, eighty-six (86) days after the parties spoke on the telephone to discuss the dispute.

15. Plaintiff did not file a Motion to Compel and for Sanctions against Defendant Harford County, Maryland.

## **ARGUMENT**

Mitchell urges this Court to deny Plaintiff's Motion to Compel for three reasons. First, Plaintiff failed to make good faith efforts to resolve the discovery dispute. This is evidenced by the fact that Plaintiff made no attempt after counsel's singular phone call with Mitchell to further discuss the discovery dispute. Plaintiff made no attempt to follow up by telephone or email with Mitchell's counsel until Plaintiff filed this instant Motion to Compel eighty-six (86) days later. Given the exorbitant amount of time that passed, Mitchell understood that Plaintiff had abandoned their issue with Mitchell's discovery responses. It is improper for Plaintiff to suggest that one phone call in November 2022 between counsel satisfies the requirement that Plaintiff engage in a good faith effort pursuant to Md. Rule 2-431 to resolve the discovery dispute prior to filing a Motion to Compel and for Sanctions nearly three months later. For this reason alone, Mitchell urges this Court to deny the Motion to Compel.

Second, despite Plaintiff's assertion at paragraph 7 of their Motion to Compel that Mitchell "flatly states that it refuses to respond to 3P's requests," Mitchell's objection was premised on the well-founded argument set forth in its Motion to Dismiss that the lawsuit is improperly before the Court. Indeed, Mitchell (and the County) objected to Plaintiff's discovery requests because Plaintiffs' lawsuit ignored the basic principles of justiciability and administrative exhaustion and seeks

discovery that is not permitted in a challenge to an administrative process. Mitchell also objected to Plaintiff's requests because Plaintiffs improperly plead an anticipatory nuisance. Mitchell and the County presented these exact issues to the Court in its respective motions to dismiss and until the Court resolves the dispositive motions, it is inequitable to require Mitchell to respond to Plaintiff's discovery requests. In *North River Ins. Co. v. Mayor of Balt.*, 343 Md. 34, 47 (1996), the Supreme Court of Maryland wrote, "[w]e fully recognize that ruling on discovery disputes, determining whether sanctions should be imposed, and if so, determining whether what sanction is appropriate, involve a very broad discretion that is to be exercised by the trial court." Further, Md. Rule 2-432(b)(2) provides in part, "If the court denies the motion in whole or in part, it may enter any protective order it could have entered on a motion pursuant to Rule 2-403." In this case, at a minimum, Mitchell urges this Court to deny Plaintiff's Motion to Compel and stay discovery until the resolution of the pending dispositive motions. If Defendants are unsuccessful in their dispositive motions, then Mitchell urges this Court to issue a scheduling order setting forth the time in which Mitchell shall respond to Plaintiff's discovery requests.

Lastly, Plaintiffs assertion at paragraph 17 of their Motion to Compel that "Plaintiff requires the answers and documents responsive to its requests to prosecute this action because these requests and interrogatories are reasonably calculated to



lead to the discovery of admissible evidence” is not supported by the allegations in Plaintiffs’ Complaint or Plaintiff’s conduct in this case. Plaintiffs’ Complaint is premised entirely on the fact that Mitchell and the developer of the Subject Property, Defendant Chesapeake, seek to develop the Subject Property and have taken actions to achieve that goal by submitting Development Plans to Harford County. Plaintiffs’ Complaint acknowledges that the Development Plans have not yet been approved. If those Development Plans are approved, Plaintiff has an administrative remedy to challenge the approvals. Such a remedy does not allow for discovery, which Plaintiff improperly seeks as part of this lawsuit. To require Mitchell to respond to Plaintiff’s improperly issued discovery requests and to impose sanctions on Mitchell prior to a ruling from this Court on the pending dispositive motions would be unduly burdensome and cause significant unnecessary expense and oppression to Mitchell.

### **CONCLUSION**

For all the reasons set forth above Mitchell respectfully urges this Court to deny Plaintiff’s Motion to Compel and for Sanctions.

Respectfully submitted,

/s/

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*Attorneys for Defendant Mitchell*

### **REQUEST FOR A HEARING**

Mitchell requests a hearing on its Opposition to Plaintiff's Motion to Compel and for Sanctions.

/s/

David S. Lynch, Esquire  
AIS# 0812170228

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY on this 9th day of March, 2023, that a copy of the foregoing F.O. Mitchell & Bro.'s Opposition to Plaintiff's Motion to Compel and for Sanctions and Request for a Hearing was served on all parties registered for services via MDEC e-filing

/s/

David S. Lynch, Esquire  
AIS# 0812170228

PAUL JOHN CISAR, et al.,	*	IN THE
Plaintiffs,	*	CIRCUIT COURT
v.	*	FOR
F.O. MITCHELL & BRO, et al.,	*	ANNE ARUNDEL COUNTY
Defendants.	*	CASE NO.: C-02-CV-22-000988
* * * *	*	* * * *

**DEFENDANT HARFORD COUNTY, MARYLAND ANSWERS TO  
TO PLAINTIFF 3P'S FIRST SET OF INTERROGATORIES**

Defendant Harford County, Maryland by its undersigned counsel, hereby responds and objects to the Interrogatories propounded by Plaintiff 3P and states:

**INTRODUCTION**

The information supplied in these answers is not based solely upon the knowledge of the executing party, but includes the knowledge of the party's agents, representatives, and attorneys, unless privileged. Moreover, the documentary record may contain information that Harford County is not able to recall or cannot reasonably include in these answers. Harford County reserves the right to rely upon the documentary record, which is being or has been produced in discovery to the extent it is in Harford County's possession.

The word usage and sentence structure are that of the attorneys who in fact prepared these answers, and the language does not purport to be the exact language of the executing party.

Harford County construes each request for information as not seeking information protected from disclosure by the attorney-client privilege, the accountant-client privilege, the spousal privilege, the attorney work-product privilege and/or the joint defense privilege. Harford County shall not provide such information. By attempting to answer the Interrogatories in good faith, Harford County does not waive any privilege objections.

### **OBJECTION**

Harford County objects to each interrogatory as improper under the circumstances of this case. Plaintiffs improperly filed this case in Anne Arundel County without exhausting administrative remedies and without waiting for a final administrative decision. Had Plaintiffs followed the required process under established Maryland law, Plaintiffs would have waited for the administrative decision(s), and (if aggrieved) their remedy would have been to seek judicial review in the Circuit Court for Harford County pursuant to Chapter 200 of Title 7 of the Maryland Rules, which proceeding would not provide for discovery under Chapter 400 of Title 2 of the Maryland Rules. Plaintiffs, therefore, are seeking to use an improper procedure to obtain discovery to which they are clearly not entitled under Maryland law. Harford County will not respond to Plaintiffs' improperly issued interrogatories and will continue to follow the administrative process as required by law.

### **ANSWERS**

**INTERROGATORY NO. 1:** Identify all persons providing information in response to these Interrogatories, including as part of the identification the person's full name, date of birth, residential and business address, job title and occupation.

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 2:** Identify each person, other than a person intended to be called as an expert witness at trial, having discoverable information that tends to support a position that you have taken or intend to take in this action, including any claim for damages, and state the subject matter of the information possessed by that person. (Standard General Interrogatory No. 1.)

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 3:** Identify each person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify, state the substance of the findings and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and, with respect to an expert whose findings and opinions were acquired in anticipation of litigation or for trial, summarize the qualifications of the expert, state

the terms of the experts' compensation, and attach to your answers any available list of publications written by the expert and any written report made by the expert concerning the expert's findings and opinions. (Standard General Interrogatory No. 2.)

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 4:** If you intend to rely upon any documents, electronically stored information, or tangible things to support a position that you have taken or intend to take in the action, including any claim for damages, provide a brief description, by category and location, of all such documents, electronically stored information, and tangible things, and identify all persons having possession, custody, or control of them. (Standard General Interrogatory N. 3.)

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 5:** Set forth in detail the roles, as you understand them, of all Defendants in the Mitchell Property Development.

ANSWER: Harford County incorporates the Objection stated above. Harford County further objects to this interrogatory as vague in that "the roles ... of all Defendants" is unclear and not defined.

**INTERROGATORY NO. 6:** Set forth in detail the intended purpose, as Harford County understands it to be, for the Mitchell Property Development.

ANSWER: Harford County incorporates the Objection stated above. Harford County further objects to this interrogatory as vague in that "the intended purpose ... for the Mitchell Property Development" is unclear and not defined.

**INTERROGATORY NO. 7:** Set forth in detail the definition of "light industrial" as that term is used in the Harford County Zoning Code, including any prohibited uses.

ANSWER: Harford County incorporates the Objection stated above. Harford County further objects to this interrogatory as overly broad.

historical, archeological, or environmental aspects, and potential impacts on the health, safety, and wellbeing of the Perryman Peninsula residential community.

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 12:** State the name, residence, business addresses, phone numbers, and job position of all person(s) and/or entities who has knowledge of any facts relating to matters alleged in plaintiffs' Complaint and/or defendants' Answer, and/or who may testify as witnesses at the trial or any hearing thereof, describing generally each individual's involvement and identify each and every written or recorded statement made by such potential witnesses.

ANSWER: Harford County incorporates the Objection stated above. Harford County further objects to this interrogatory as duplicative.

**INTERROGATORY NO. 13:** Please describe all communications you, or anyone on your behalf has had with any member, agent, employee, officer, official or representative of, F.O. Mitchell & Bro. regarding or concerning the Mitchell Property Development, and/or the Site, including in your response the date, time, method of communication, location, who was present, and the substance of the communication.

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 14:** Please describe all communications you, or anyone on your behalf has had with any member, agent, employee, officer, official or representative of, Frederick Ward Associates, Inc. regarding or concerning the Mitchell Property Development, and/or the Site, including in your response the date, time, method of communication, location, who was present, and the substance of the communication.

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 15:** Please describe all communications you, or anyone on your behalf has had with any member, agent, employee, officer, official or representative of, Chesapeake Real Estate Group, LLC regarding or concerning the Mitchell Property Development, and/or the Site, including in your response the date, time, method of communication, location, who was present, and the substance of the communication.

ANSWER: Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 16:** Please state whether you have or anyone on your behalf has had oral or written communications with any abutters or area residents of the Site concerning the Site and/or the Mitchell Property Development and if so please describe such communications, including the date, time, method of communication, location, who was present, and the substance of the communication.

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 17:** Set forth in detail all communications among the defendants discussing the proposed use of the Mitchell Property Development, and/or the proposed use of the Site, and all communications the (sic) pertain to the manner in which to describe the proposed use in plans submitted to the Harford County Planning and Zoning Department.

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 18:** Set forth in detail all facts and identify all documents detailing all investigations done by you or anyone on your behalf into the purported intended purpose for the development of the Mitchell Property as "light manufacturing, warehousing and service uses."

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 19:** Set forth in detail all actions you have taken in relation to approving the development or permitting of the Site in furtherance of the Mitchell Property Development.

**ANSWER:** Harford County incorporates the Objection stated above.

**INTERROGATORY NO. 20:** State the name, address and telephone number of any person, other than counsel, with whom you have communicated, whether orally or in writing, concerning your answers to these Interrogatories, and identify the date, location and a description of the substance of the communication.

**ANSWER:** Harford County incorporates the Objection stated above.


**INTERROGATORY NO. 21:** Identify all documents reviewed, cited or relied upon in preparing these Answers to Interrogatories.

**ANSWER:** Harford County incorporates the Objection stated above.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Date: November 14, 2022

HARFORD COUNTY, MARYLAND

  
By: Meaghan Giorno Alegi, Acting County Attorney

/s/ David M. Wyand

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*Attorney for Defendant, Harford County, Maryland*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 2022, a copy of Defendant Harford County, Maryland Answers to Plaintiff 3P's First Set of Interrogatories was served through MDEC on: Rignal W. Baldwin V, Esq., Michael A. Cuches, Esq., Baldwin Seraina, LLC, 111 South Calvert Street, Suite 1805, Baltimore, Maryland 21202, rbaldwinv@baldwin-seraina.com, mcuches@baldwin-seraina.com; David S. Lynch, Esq. and Robert Lynch, Esq., Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014, dlynch@starkandkeen.com, rlynch@starkandkeen.com; Joseph F. Snee, Jr., Esq. and Laura Bechtel, Esq., Snee, Lutch, Helminger & Spielberger, P.A., 112 S. Main Street, Bel Air, Maryland 21014, jsnee@slhslaw.com, lbechtel@slhslaw.com; and Andrew T. Stephenson, Esq. and Jessica D. Corace, Esq., Franklin & Prokopik, P.C., Two North Charles Street, Suite 600, Baltimore, Maryland 21201, astephenson@fandpnet.com, jcorace@fandpnet.com.

/s/ David M. Wyand

David M. Wyand



PAUL JOHN CISAR, et al.,	*	IN THE
Plaintiffs,	*	CIRCUIT COURT
v.	*	FOR
F.O. MITCHELL & BRO, et al.,	*	ANNE ARUNDEL COUNTY
Defendants.	*	CASE NO.: C-02-CV-22-000988
* * * *	*	* * * *

**DEFENDANT HARFORD COUNTY, MARYLAND RESPONSES TO  
PLAINTIFF 3P'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendant Harford County, Maryland ("Harford County"), by its undersigned attorneys, responds to the Request for Production of Documents ("Document Requests") propounded by Plaintiff 3P ("3P"), and states:

**INTRODUCTION**

Harford County construes each request for information as not seeking information protected from disclosure by the attorney-client privilege, the accountant-client privilege, the spousal privilege, the attorney work-product privilege and/or the joint defense privilege. Harford County shall not provide such information. By attempting to respond to these Requests in good faith, Harford County does not waive any privilege objections.

Harford County expressly reserves any and all objections as to relevance and materiality. Any and all responses are not intended to waive or prejudice any objections which may later be asserted. Harford County's response should not be construed as an admission of the existence of any document or that any document is in its possession, custody or control.

To the extent Plaintiff is seeking electronically stored information, Harford County objects to producing it in native format, as the cost of doing so is outweighed by the utility in this case.

**OBJECTION**

Harford County objects to each document request as improper under the circumstances of this case. Plaintiffs improperly filed this case in Anne Arundel County without exhausting

administrative remedies and without waiting for a final administrative decision. Had Plaintiffs followed the required process under established Maryland law, Plaintiffs would have waited for the administrative decision(s), and (if aggrieved) their remedy would have been to seek judicial review in the Circuit Court for Harford County pursuant to Chapter 200 of Title 7 of the Maryland Rules, which proceeding would not provide for discovery under Chapter 400 of Title 2 of the Maryland Rules. Plaintiffs, therefore, are seeking to use an improper procedure to obtain discovery to which they are clearly not entitled under Maryland law. Harford County will not respond to Plaintiffs' improperly issued document requests and will continue to follow the administrative process as required by law.

### **RESPONSES**

**REQUEST NO. 1:** All documents relating to the Mitchell Property Development.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 2:** All communications between you and any other Defendant relating to the Mitchell Property Development and/or the Site.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 3:** All communications between you and anyone other than another Defendant relating to the Mitchell Property Development and/or the Site.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 4:** All communications to, from, or by any abutters or area residents of the Site concerning the Mitchell Property Development or the Site.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 5:** All communications relating to the preparation, publication, submission or filing of the Site plans comprising the Mitchell Property Development, including but not limited to the following: zoning, septic, wastewater, wetlands, rivers, streams, stormwater, drainage, drinking water, groundwater and wells, including the Perryman wellfield, endangered and protected species, soil, Site access, ingress and egress, noise, traffic, vibration, air quality, dust and particulate matter, lighting, historical, archeological, or environmental aspects, and potential impacts on the health, safety, and wellbeing of the Perryman Peninsula residential community.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 6:** All investigations, research, studies and reports relating to the following aspects of the Mitchell Property Development and the Site: zoning, septic, wastewater, wetlands, rivers, streams, stormwater, drainage, drinking water, groundwater and wells, including the Perryman wellfield, endangered and protected species, soil, site access, ingress and egress, noise, traffic, vibration, air quality, dust and particulate matter, lighting, historical, archeological, or environmental aspects, and potential impacts on the health, safety, and wellbeing of the Perryman Peninsula residential community.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 7:** All communications with any member, agent, employee, officer, official or representative of the Harford County Council regarding or concerning the Mitchell Property Development and the Site.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 8:** All communications to or from the County Executive regarding or concerning the Mitchell Property Development and the Site.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 9:** All documents constituting or relating to traffic studies projecting the type, amount, routes, and daily flow of traffic that the Mitchell Property Development will generate (a) during development and construction and (b) upon completion.

**RESPONSE:** Harford County incorporates the Objection stated above.

**REQUEST NO. 10:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not create hazardous traffic conditions for the Plaintiffs and other residents of the Perryman Peninsula.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 11:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not affect the air quality for the Plaintiffs and other residents of the Perryman Peninsula.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 12:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not affect the water quality and supply for the Plaintiffs and other residents of the Perryman Peninsula.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 13:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not increase the amount of noise in the area for the Plaintiffs and other residents of Perryman Peninsula.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 14:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not endanger the Plaintiff's school aged children and the children of other residents of the Perryman Peninsula as they travel to and from school.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 15:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not endanger the Plaintiffs and other residents of the Perryman Peninsula when they are walking or jogging along the roadway used for ingress and egress to the Site.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 16:** All documents, including communications, on which you rely to contend that the Mitchell Property Development will not adversely affect the quality of life that the Plaintiffs and other residents of the Perryman Peninsula currently enjoy.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 17:** All documents, including communications, on which you rely to contend that the property values of the Plaintiffs and other residents of the Perryman Peninsula will not be negatively impacted by the Mitchell Property Development.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 18:** All documents, including communications, on which you rely to contend that the property values of the Plaintiffs and other residents of the Perryman Peninsula have not already been negatively impacted by the submission of the Mitchell Property Development for the County's review and approval.

**RESPONSE:** Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County's contentions.

**REQUEST NO. 19:** All documents, including communications, that support your contention that the Mitchell Property Development's proposed use is in accordance with the

Harford County Zoning Code and meets the definition of “light manufacturing, warehousing and service uses” as defined in the Harford County Code.

RESPONSE: Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County’s contentions.

**REQUEST NO. 20:** All documents, including communications, that support your contention that the Mitchell Property Development should not be considered for zoning and use purposes as a Freight Terminal.

RESPONSE: Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County’s contentions.

**REQUEST NO. 21:** All documents, including communications, that support your contention that the Mitchell Property Development does not constitute a public nuisance.

RESPONSE: Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County’s contentions.

**REQUEST NO. 22:** All documents, including communications, that support your contention that the Mitchell Property Development does not constitute a private nuisance.

RESPONSE: Harford County incorporates the Objection stated above. Harford County further objects to this request as assuming Harford County’s contentions.

**REQUEST NO. 23:** All reports and the supporting documents for any expert on whom you are relying in submitting and/or reviewing the Mitchell Property Development.

RESPONSE: Harford County incorporates the Objection stated above.

**REQUEST NO. 24:** All reports and the supporting documents of experts on whom you will rely at trial.

RESPONSE: Harford County incorporates the Objection stated above.



**REQUEST NO. 25:** All documents electronically stored and tangible things that support any position you have taken or intend to take in submitting and reviewing the Mitchell Property Development.

**RESPONSE:** Harford County incorporates the Objection stated above.

/s/ David M. Wyand

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*Attorney for Defendant, Harford County, Maryland*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14th day of November, 2022, a copy of Defendant Harford County, Maryland Responses to Plaintiff 3P's First Request for Production of Documents was served through MDEC on: Rignal W. Baldwin V, Esq., Michael A. Cuches, Esq., Baldwin Seraina, LLC, 111 South Calvert Street, Suite 1805, Baltimore, Maryland 21202, rbaldwinv@baldwin-seraina.com, mcuches@baldwin-seraina.com; David S. Lynch, Esq. and Robert Lynch, Esq., Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014, dlynch@starkandkeen.com, rlynch@starkandkeen.com; Joseph F. Snee, Jr., Esq. and Laura Bechtel, Esq., Snee, Lutch, Helminger & Spielberger, P.A., 112 S. Main Street, Bel Air, Maryland 21014, jsnee@slhslaw.com, lbechtel@slhslaw.com; and Andrew T. Stephenson, Esq. and Jessica D. Corace, Esq., Franklin & Prokopik, P.C., Two North Charles Street, Suite 600, Baltimore, Maryland 21201, astephenson@fandpnet.com, jcorace@fandpnet.com.

/s/ David M. Wyand

David M. Wyand