

## **Wolff Response for Summary Disposition Motion of January 12, 2024**

### **1) I sincerely apologize for missing the hearing on December 1, 2023.**

My finding of this lapse occurred only recently when I received the large packet of information from Mr. Kazim, which was the first time I realized that a hearing actually occurred, which was an unpleasant surprise to me. No disrespect to the Court or to the Defendants or their legal team was intended.

In my limited experience of about a half dozen previous cases, I have never been informed of a hearing by the opposing counsel, and consequently I expected to get confirmation of the hearing directly from an agent of the Court. When no such notification came, I thought that the statement of “or soon thereafter” meant that the hearing itself had been requested but was yet to have actually been confirmed. I now take it that this statement was in reference to the specific time of day mentioned, not the day itself, and again, I apologize for this lapse and for my absence, and hope it can be forgiven. That won’t happen again.

### **2) Standards for submission:**

I understand the format that I have used may not match what a professional lawyer would produce. However, I read them and made an attempt to adhere as well as I was able.

*MCR 2.111 (A)(1): Each allegation of a pleading must be clear, concise, and direct.*

I provided a numbered list of claims, in both a very concise format, and a duplicate list which included expanded detail. It may not be in a style that Mr. Kazim is accustomed to reviewing, but his statement that “He... has not made any attempts to comply with the provisions of MCR 2.111(A)(1)... is false.

*MCR 2.111 (B)(1): A statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend;*

I certainly tried to supply statements of facts, including specific inaccurate and inflammatory allegations made the Health Department, and the precise language of their own code that was manipulated to their benefit in their attempt to pin blame on me (for the construction of a small shed and the chosen usage of a limited portion it). I also provided a list of quotes in the appendix to illustrate the points I sought to make.

*MCR 2.113 (B): Paragraphs; Separate Statements.*

*(1) All allegations must be made in numbered paragraphs, and the paragraphs of a responsive pleading must be numbered to correspond to the numbers of the paragraphs being answered.*

*(2) The content of each paragraph must be limited as far as practicable to a single set of circumstances.*

*(3) Each statement of a claim for relief founded on a single transaction or occurrence or on separate transactions or occurrences, and each defense other than a denial, must be stated in a separately numbered count or defense.*

I believe there could be a significant disparity in how this criterion is met, with legal experience likely leading to submissions of a “typical” and generally more traditional and consequently acceptable style. I don’t have the benefit of such experience, but I tried to organize and label my points clearly.

However, a strict emphasis on style undermines the human nature of my grievance, my family's decades long pattern of responsible ownership and my suffering from the contentious behaviors I was subjected to, which forms the basis of my complaint. Yes, I have supplied a number of updated versions, but I tried to address issues raised and I feel that the complaint does appropriately convey the necessary information.

### **3) Clarity of complaint**

Again, I'm not a legal professional, but I have tried hard to outline my complaint against the Health Department. It is certainly NOT a "stream of consciousness ranting..." That statement is inappropriate. The first page of every version of the complaint I have submitted (now Page 2 of latest complaint) lists very clearly the two primary issues that have affected my life, and the list of claims explains clearly how these effects were created. I believe that information (and the rest) forms a sound basis for my complaint.

### **4) Complaint Summary and Complaint Details**

The list of specific issues outlined in the "Complaint Summary" which are explained in greater detail in the intentionally duplicate "Complaint Details". The redundancy there that Mr. Hazim mentioned is an intended courtesy to supply both a concise summary and a duplicate list with more detail.

### **5) Request for Damages**

As to the damages I seek and whether or not the Health Department is immune to such an outcome as contended on page 6 by Mr. Hazim, I might agree with that if the Health Dept. had done their job appropriately and stayed within their prescribed mission, but it is clear to me that they violated their mission, and behaved in a predatory manner that I believe makes consideration for damages appropriate.

As to the request that I be required to pay for their legal fees, I hope it is very clear how hard I worked with the Health Department for 2 years to try to attain a remedy for my property situation and for a solution to my grievances with them. However, each time an appeals hearing was held, some new wrinkle was created by Health Dept. personnel which undermined the integrity of my situation and I contend to the very integrity of the hearings. (Spurious statements and inaccurate data the first time, and a disregard for accurate data and a distortion of their own codes the second time.)

Given the circumstances, I feel I was justified in filing the complaint, and if a judgement rendered that I must pay for legal fees for an agency that behaved in an inappropriate manner as I contend the Health Department has, I will be dismayed but I will not let the prospect of such an outcome dissuade me from seeking the justice that I believe I am entitled, with or without any monetary damages being awarded.

### **6) Gross Negligence**

Per *Lameau vs Royal* noted on page 9, I firmly believe that the Health Department has displayed gross negligence in a number of situations. First and foremost was the rash and unwarranted statement of "multiple violations" which was not accurate and went outside the bounds of what the Health Department's role as their mission outlines. ***In what manner does indicating a suspicion of zoning or building infractions serve to promote health equity or protect the environment? (It doesn't.)***

Further, contending that my use of 50 ft<sup>2</sup> of a legally constructed shed could enact the 50% threshold for the "Successor Building Status" as they claimed as the primary basis for the denial of my appeal at the 2<sup>nd</sup> Board of Appeals hearing was way out of line. That entire line of audacious reasoning and analytical inaccuracy was grossly in error, yet a Health Department employee (Mr. Jones) proffered that as a primary reason to contest my septic system's viability for continued use at the 2<sup>nd</sup> appeals hearing.

## 7) Plaintiff Failed to State a Claim Against the Defendants

Per the statement on page 10, yes I acknowledge that my septic system doesn't meet current code. It was originally installed 60 years ago. However, nor does my family's property usage come close to matching what is now required by modern zoning code. Yet that doesn't alleviate my family's legal right to safely use and maintain such a system and consequently to enjoy our property as we have for decades. *I accepted the property from my parents expecting to assume ownership & use it exactly as they did.* This is a critical point which appears to have been missed by Mr. Kazim. It's a fundamental property right that has been misconstrued by the Health Dept. and by the Township, and by some of my neighbors as well.

However, I MUST STRONGLY DISAGREE with the statement that I failed to register the system (bottom of page 10). That lapse occurred long before I ever took ownership of the property, either by my parents or more likely by the prior owner who installed it. I have made every effort to register the system and have applied for a number of inspections from the Health Dept. in addition to filing the well permit.

To be clear, I undertook a very careful pattern of improvements on my property intended to allow it to remain functional and vital, and to improve its appearance for the neighborhood, all the while being very careful to make sure everything I did was legal. The assertion that I casually failed to register the existing septic system is not accurate and is inflammatory in a very similar manner as comments previously made by Health Department personnel, and I find this offensive in what appears to be a continuing pattern.

## 8) Clarification made to the organization / person listed as defendant

My original submission was titled "Wolff vs the Health Department of Northwest Mich. COMPLIANT". I hope it was clear that my complaint was directed against the Health Department including everyone involved there that contributed to my loss of property rights and to the confusion and hostile environment that I have been subject to which was created/magnified due to the inappropriate conduct of Health Dept. employees. I initially mentioned only Mr. Jeremy Fruk as he is the director of the Environmental Dept. that oversees wells and septic systems, **but I have now added Mr. Mike Jones who works for Jeremy.**

Per the discussion from Mr. Kazim on page 9, as a point of fact, Mr. Fruk was the named as the recipient of the letter I wrote on 2-23-23 and encompasses pages 13-16 of the Appendix. I had substantial contact with him as that letter illustrates. I have now also added to the appendix an inflammatory statement Mr. Fruk made at a Board of Health meeting which I attended on 11-1-22 and spoke regarding my situation.

## In conclusion

I hope some allowance can be made for my inexperience, (& difficulty gaining LSR support) and that the case will be allowed to proceed, even after the mistake I made missing the Dec. 1 hearing, and the other slights/issues Mr. Hazim has so diligently complied. ***(I have the Feb. 2 hearing on my calendar!)***

I feel it should be clear that the actions I have taken as a property owner (and as the son of the previous owners) have been legal and honorable. My determination to clearly expose the troubling experiences I have had with the Health Department of Northwest Michigan and to do so out loud in a public and under oath in a court of law remains undeterred. They had no right to put the lifestyle of myself and my family on trial in the manner that they did or to distort their own codes to attempt to make me look like the culprit, as Mr. Kazim appears to be doing now as well. I aim to see that the organization and the people involved are appropriately held to account. That is my goal, my hope, and my request to the Court.

**Sincerely, Hal Wolff**

Proud property owner of 07645 Cedar Lane, Eveline Township, and son of Richard and Ellen Wolfe