



U.S. Department of Justice

United States Attorney
Northern District of Illinois

Patrick W. Johnson
Assistant United States Attorney
Deputy Chief, Civil Division

Dirksen Federal Courthouse
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604

Phone (312) 353-5327

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By Electronic, Regular, and Certified Mail

Jeff Pruyn
Itasca Village Mayor
550 West Irving Park Rd.
Itasca, Illinois 60143
mayor@itasca.com

Charles E. Hervas
Hervas, Condon & Bersani, P.C.
333 Pierce Road, Suite 195
Itasca, Illinois 60143
[REDACTED]

Re: Investigation of Compliance with the Americans with Disabilities Act by the
Village of Itasca, Illinois

Messrs. Pruyn and Hervas:

We are writing to inform you that the U.S. Attorney's Office for the Northern District of Illinois has initiated an investigation of the Village of Itasca for compliance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA").¹ Among other things, the ADA prohibits discrimination against individuals with disabilities, including individuals with substance use disorder.

Pursuant to our authority under the ADA, the investigation is related to the zoning application of Haymarket DuPage LLC ("Haymarket DuPage") filed with the Village of Itasca to use property to operate a treatment center for individuals with substance use and behavioral health disorders. Specifically, Haymarket DuPage's application was considered in Plan Commission Case No. PC 19-014, which sought approval for a planned development by special use in order to permit a mixed-use residential and healthcare facility and other accessory uses in the B-2 Community Business District at 860 W. Irving Park Road. The Itasca Plan Commission recommended on September 22, 2021 that the Haymarket DuPage application be denied, and the Itasca Village Board denied the application on November 2, 2021.

¹ See 42 U.S.C. §§ 12131-12134, and its implementing regulations, 28 C.F.R. Part 35. The text of the ADA, the Department of Justice's regulations, and many technical assistance publications can also be accessed at www.ADA.gov.

We ask that you provide the following information within thirty (30) calendar days of the date of this letter. If any of the information requested is not available in writing, please provide corresponding documents, written policies, or other written material that addresses the substance of the information requested. This request falls within DOJ's federal law enforcement authority. Such authority creates exceptions to statutes that may otherwise limit disclosure of private information.

Information Requested

1. The name, address, and telephone number of the individual to whom this office should direct any future questions and correspondence. Please indicate if this person has authority to negotiate a settlement of this matter.
2. Other than the Village's current Zoning Map and Bylaws, produce any previous zoning maps and bylaws in effect since 2016.
3. Any lists or other documents that contain the address and/or location of any business or organization in the Village that provides diagnosis, treatment, recovery support, or any other services to individuals suffering from substance use or mental health disorders.
4. Copies of any applications for site plan approval, special use permits, plan developments, certificates of completion, certificates of occupancy, rezoning, variances, amendments to the Village's Zoning Bylaws or Zoning Map, or similar applications to use land in the Village to provide diagnosis, treatment, recovery support, or any other services to individuals suffering from substance use or mental health disorders since 2005. For each such application, provide a statement of whether the application was approved or denied, the zoning district where the entity sought to locate, the date of such approval or denial, and the reasons for approval or denial.
5. State whether the Village has had any pre-application meetings or inquiries since 2005 (that did not result in an application) about using land in the Village to provide diagnosis, treatment, recovery support, or any other services to individuals suffering from substance use or mental health disorders. If so, identify when, where, and with whom those meetings occurred, and describe the type of facility being discussed and the outcome of those discussions.
6. Copies of any applications for site plan approval, special use permits, plan developments, certificates of completion, certificates of occupancy, rezoning, variances, amendments to the Village's Zoning Bylaws or Zoning Map, or similar applications to use land in the Village by or concerning any Healthcare Facility as defined under the Itasca Zoning Ordinance since 2005. For each such application, provide a statement of whether the application was approved or denied, the zoning district where the entity sought to locate, the date of such approval or denial, and the reasons for approval or denial.
7. Identify Village policies or procedures for requesting a reasonable accommodation to the Village's Zoning Ordinance pursuant to the federal Fair Housing Act or the Americans with Disabilities Act, and produce all documents that contain or are sufficient to show these policies or procedures.

8. All communications² and documentation related to the Village's 2019 decision to classify Haymarket DuPage as a planned development for purposes of zoning proceedings rather than a healthcare facility.
9. All communications related to Haymarket DuPage between the Village of Itasca, its employees, representatives, or counsel (collectively, the "Village")³ and either of the following two interested parties in the Haymarket DuPage Plan Commission hearing: (1) Itasca Fire Protection District, including its employees, representatives, or counsel (collectively, the "Fire Department"); or (2) Itasca School District No. 10, its employees, representatives, or counsel (collectively, "School District"). Responsive documents or communications that are publicly available on the Village website or that Haymarket DuPage was copied on need not be produced.
10. State whether there were any meetings or verbal communications related to Haymarket DuPage between the Village and either of the two interested parties listed in item 9 above that occurred outside of the hearing process and outside the presence of Haymarket DuPage. If so, for each such meeting or communication, provide the date and location, identify the participants, and produce any recordings, documents, or notes.
11. All internal communications of the Village and documentation created by the Village related to Haymarket DuPage.
12. All communications and documentation related to Haymarket DuPage between the Village and Sarah Ketchum, including both consulting firms she worked for (The Kenrich Group LLC, which has been acquired by HKA Global, Inc.), or their counsel. Responsive documents and communications that are publicly available on the Village website or that Haymarket DuPage was copied on need not be produced.
13. All communications and documentation between the Village and Lissa Druss, directly or through counsel, related to Haymarket DuPage. Responsive documents and communications that are publicly available on the Village website or that Haymarket DuPage was copied on need not be produced.
14. All communications and documentation between the Village and North DuPage Special Education Cooperative representatives or counsel related to Haymarket DuPage.
15. All communications and documentation between the Village and Lake Park High School District 108 representatives or counsel related to Haymarket DuPage.
16. All communications and documentation between the Village and Superior Ambulance Service representatives or counsel related to Haymarket DuPage.

² "Communications" in the requests in this letter means correspondence, notes, records, letters, memoranda, reports, emails (both work and personal), and texts (both work and personal), instant messages, posts on messaging apps, and other documents (including transcriptions, logs, and audio and video recordings).

³ "Employees" and "representatives" used throughout this letter shall include both current and former employees/representatives. "Representatives" includes any staff or experts hired or retained in connection with the Haymarket DuPage zoning hearing before the Plan Commission.

17. State whether the Village has ever hired an expert to evaluate the economic impact of an application for a special use permit or a planned development since 2005. If so, produce all communications and documentation relating to any such expert and the work performed by the expert.
18. All communications and documentation relating to any application for a special use permit to operate a business, service, or organization that is nonprofit and exempt from paying property taxes, including but not limited to (1) American Academy of Pediatrics; (2) Gift of Hope Organ and Tissue; and (3) National Safety Council.
19. Identify all applications for a special use permit or a planned development since 2005 in which the Village requested that the applicant submit an economic impact statement as part of the application process. For each such application, produce all communications and documentation relating to the economic impact statement.
20. Identify all applications for a special use permit or a planned development since 2005 where the Fire Department participated by submitting documentation or statements to the Plan Commission. For any such application, produce all communications and documentation relating to the Fire Department's participation.
21. All documentation and information provided by the Fire Department to the Illinois State Fire Marshal related to mutual aid given to or received from other communities for the years 2014 to the present. State whether the Village ever asked for this information in connection with the Haymarket DuPage hearing.
22. Identify all applications for a special use permit or a planned development since 2005 where the School District participated by submitting documentation or statements to the Plan Commission. For any such application, produce all communications and documentation relating to the School District's participation.

We have attempted to limit the areas of inquiry to expedite the initial phase of this investigation, and we are willing to work with you to minimize any burdens that would be imposed upon you or your staff in providing this information.

In addition to providing us with the requested information, we invite you to provide us with any other information that you believe is relevant to our inquiry. We may want to interview certain Village employees, agents, or officials as well. We will let you know as soon as possible of any need to interview such persons.

Finally, we request that the Village maintain any and all records, documents, files, or tapes that could be relevant to this investigation in their current form. To the extent that such records are contained in a computer system, computer files should not be altered or destroyed pending completion of our investigation.

If you have any questions, please do not hesitate to contact me at (312) 353-5327 or patrick.johnson2@usdoj.gov.

Very truly yours,

JOHN R. LAUSCH, Jr.
United States Attorney

By: s/ Patrick W. Johnson
PATRICK W. JOHNSON
Assistant United States Attorney