

October 25, 2022

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Piscataway, NJ 08854

Zachary J. Styczynski, Esq.
Attorney for A-Tech Landscape Design
100 Willow Brook Rd., Suite 100
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VIA
USPS REGULAR MAIL
USPS CERTIFIED MAIL, RETURN RECEIPT REQUESTED
EMAIL

Dear Mr. Styczynski,

I am in receipt of your Cease and Desist letter dated October 20, 2022, on behalf of your client A-Tech Landscape Design (“A-Tech”). Based on the claims made in your letter, I am going to assume you have read all the home page content on www.savethehill.org (the “Website”) and are aware of the controversy surrounding the removal of the spoils pile located on the Society Hill at Piscataway property. Your firm is now providing additional content for my website.

I further assume you are aware that you face the additional burden of convincing the Court that I have acted with “actual malice” toward your client, as I would be considered a “limited public official” in the context of a defamation claim against me in New Jersey. Defamation *per se*, if proven, only potentially relieves you of showing actual damages. It does not relieve you of the actual malice burden.

You should be aware that your client is most likely the party responsible for the original bid specifications and estimate of the volume of soil to be removed from the property. While it is understandable that it can be difficult to estimate the volume of a soil pile, it is not impossible. This is a matter in which nearly all uncertainty could be removed, with techniques commonly known in the industry. When I make a reasonable effort to measure the volume myself, I come up with a radically different answer, as mentioned multiple times on the Website. At best, it is irresponsible to be basing a proposal for work on such a gross mis-estimation of volume, and at worst, it is fraudulent.

At multiple public meetings of the Board of Trustees (the “Board”), the membership has been told that no contract exists between Society Hill at Piscataway and A-Tech. Therefore, your claims that I am interfering with a contract are unfounded, since as far as the membership is aware, there is no contract. If I have pressured the Board to seek other bids or other alternatives to soil removal, it is being done in the best interests of the Association as a whole, and by nearly

300 other members of the Association besides myself. If A-Tech finds itself outbid on any current or future proposals, that is not my fault or the consequence of any statements I allegedly made about A-Tech. It should be abundantly clear that the Board is a strong supporter of A-Tech, and it should also be abundantly clear that I have no control whatsoever over what this Board does, so accusing me of interfering with your client's prospective economic relations is a real stretch.

I have reviewed all 10 reference to A-Tech on my Website, prior to the October 23, 2022 posting. Most of your client's accusations are based on my statements in the absence of their original context. For example, the Board is the primary target of my "we are being robbed" allegations, not A-Tech. My calculations of what it should cost to remove the soil are not fabrications, and are instead based on actual evidence. I think it will be very difficult for you to demonstrate to a court that I am making knowingly false claims with the intention to cause harm.

The Board, management, and A-Tech were made aware of the discrepancy in the soil volume calculations early on in this controversy, and yet for some reason no effort was made by any of these parties to correct their estimates. The Board refused to release any of the raw soil testing laboratory reports to the membership, which to this day have still not been released, and made exaggerated claims as to the level of soil contamination in a shallow attempt to justify the high cost of removal. For months the Board refused to hire its own engineer to manage what had become a million-dollar project, and as best I can surmise has still not precisely done so. At two very well attended Board meetings, the Board doubled and then tripled down on its \$2,000 special assessment and A-Tech contract, refusing to even consider alternative solutions. A logical, rational Board, operating in the best interests of the Association, would have had this controversy resolved in a few weeks. But they didn't, and they didn't in a big way, which led to my well-founded public comments based on evidence and events that actually occurred. Given the circumstances, I feel it will be very difficult for you to meet the actual malice threshold.

Therefore, I find your client's defamation claims to be frivolous and most likely made with the intent of intimidating and silencing me. I feel you are attempting to impede my free speech rights and my right of civic participation, upon which a Court will not look fondly. While it is regrettable that A-Tech has found itself caught up in this controversy, the evidence continues to suggest that they are not entirely an innocent player. Consequently, I will not be able to make any of the retractions you are demanding at this point in time. I assume you will disagree, so we will be sorting all this out in front of a judge.

Please also be guided accordingly.

Sincerely,

Kevin Wine