

CLEVELAND BOARD OF ZONING APPEALS

CALENDAR NO. 10-194, 10-259, 10-260
4300 BRADLEY ROAD

RESOLUTION

MAY 16, 2011

WHEREAS, W. B. and M. E. Baumann and Bradley Road, Inc. are the owners of certain property identified as 4300 Bradley Road, Permanent Parcel Nos. 009-36-001, 009-36-002, 009-36-005, 009-36-006, 009-36-007, 009-34-002, 009-34-004, located in a General Industry District; and,

WHEREAS, property owners and their contractors, Ty, Inc. and Landsong Environmental, Inc., ("Appellants") appealed to the Board of Zoning Appeals in Cal. No. 10-259 from a decision of the Zoning Administrator of the City of Cleveland Building and Housing Department to deny a use of the property for grading, filling, and excavation, including mining, removal, transfer and sale of soils and minerals; and,

WHEREAS, the Appellants also appealed to the Board of Zoning Appeals in Cal. Nos. 10-194 and 10-260 for a special permit for their proposed use under Section 345.04(b) of the Cleveland Codified Ordinances or for a variance authorizing their proposed use under Section 329.03 of the Cleveland Codified Ordinances; and,

WHEREAS, the Board held a hearing on the Appellant's appeals on April 18, 2011, which resulted in this Board adopting a motion to deny the appeals, but before this Board ratified its decision reduced to writing, the City of Cleveland filed a Motion for Rehearing on April 25, 2011, setting forth that the Board's hearing on April 18, 2011 was conducted without a full revelation of information that was shared between the City, the Old Brooklyn Community Development Corporation, and the Appellants and was unknown or unexplained to the directly affected property owners who provided testimony at the hearing in opposition to the requests; and,

WHEREAS, Appellants filed a Motion on April 29, 2011 that argues for reconsideration of the rulings of the Board because additional evidence, specifically an executed Letter of Intent between the City of Cleveland, Landsong Environmental, Inc., and Ty Inc., was not available prior to the hearing on April 18, 2011 nor was there a submittal of a Settlement Agreement and Consent Decree involving litigation in US Northern District Court of Ohio Case No. 1:04-CV-1757; and,

WHEREAS, pursuant to Rule XI that governs this Board, a request for rehearing of a matter may be granted before the time expires to appeal a determination, if the request adequately shows good cause, which specifically includes accident or surprise, the unavailability of evidence, or an error of law at the original hearing; now, therefore,

BE IT RESOLVED BY THE CLEVELAND BOARD OF ZONING APPEALS that the parties have shown good cause to rehear Calendar Nos. 10-194, 10-259 and 10-260, which the Board shall set for a rehearing upon the filing of a joint stipulation between the City and the Appellants that a pre-rehearing conference was held by the principals of the City, the Appellants, the Old Brooklyn Community Development Corporation, and the directly affected property owners to discuss the previously mentioned Letter of Intent, including a Settlement Agreement and Consent Decree involving litigation in US Northern District Court of Ohio Case No. 1:04-CV-1757.

Yeas: Dobbins, Donovan, Haas McGraw, Johnson, Shaver Washington

Nays:

Approved and adopted by the Board of Zoning Appeals May 16, 2011.

Jan Huber - Acting Secretary
Board of Zoning Appeals