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## 88 PARK LAWSUIT UPDATE

In late August 2016, the Village Attorney appeared before a three judge panel in appellate court to present oral arguments regarding the appeal to the ongoing 88 Park Avenue lawsuit. On September 1, 2016, the Village learned that the Second District Appellate Court ruled in favor of the Village and 88 Park Avenue LLC, and affirmed the trial court's decision upholding the Village's PUD ordinance [\[link\]](#). As a result, the Village now considers this case closed. The Development is expected to commence in late September 2016.

**Brief History of the Lawsuit.** On October 21, 2013, the Village approved ordinances amending the village comprehensive plan [\[link\]](#) and granting preliminary approval [\[link\]](#) for the development of an eight-unit condominium building at the southeast corner of Park Avenue and S Prospect Avenue. On April 4, 2014, two landowners in the downtown area, Sue Hanlon and Phil Altvater, filed a two-count complaint challenging the Village's approval of the development, stating that the Village's approval was arbitrary and unreasonable, and that the Village had not followed its own rules for granting approval of such a development.

The Village initially was named as the only defendant in the lawsuit and was therefore required to defend itself and to use its general revenue funds to do so. This type of claim is not covered by any of the Village's insurance policies. As a result, on May 13, 2014, a motion presented by the Village was granted by the Court to add 88 Park Avenue LLC, the owner and developer of the property, as a necessary party defendant to the lawsuit. On October 20, 2014, the Village and 88 Park Avenue LLC entered into a cost sharing agreement for legal expenses incurred in the Lawsuit [\[link\]](#).

On April 2, 2015, Ms. Hanlon and Mr. Altvater amended their complaint adding a third count that the Village had inappropriately extended the development approval beyond 1 year after it had already lapsed. On July 29, 2015, the trial court granted the Village's motion and dismissed the third count with prejudice. The remaining counts advanced to trial.

In Early November 2015, this case was brought to trial. During the trial both parties and their respective experts provided extensive testimony addressing both complaints. The Plaintiffs claimed the proposed development would adversely impact property values in the Downtown Business District and surrounding residential areas; adversely impact the businesses in the Downtown Business District; and create a traffic and safety hazard. Shortly after the conclusion of the three-day trial the Court issued a statement ruling in favor of the Village and 88 Park Avenue LLC [\[link\]](#). The Plaintiffs later filed an appeal of the Circuit Courts' ruling.

In late August 25, 2016, the Village Attorney appeared before a three judge panel in appellate court to present oral arguments regarding the appeal to the ongoing 88 Park Avenue lawsuit. On August 31, 2016, the Appellate Court issued an order [\[link\]](#) ruling in favor of the Village and 88 Park Avenue LLC, and affirming the Circuit Court's November 18, 2015, decision. As a result, the Village now considers this case closed and is proceeding forward with the issuance of a building permit to allow the development of the 88 Park Avenue Development. As of August 31, 2016, the Village and 88 Park Avenue LLC have expended approximately \$120,000, not including in-house staff time, defending it selves during the Lawsuit.