

Priscoli is actively attempting to sell GURR and his 66% interest in the Forestland to an unnamed third party.

The Complaint (sworn to by Milanoski) thus reflects serious concerns regarding whether Delli Priscoli has the financial resources to develop the massive, twenty-plus building railroad transloading facility reflected in GURR's pleadings in this case. But even more importantly, it appears that GURR and a majority interest in the Forestland may soon be owned by an unidentified third-party who may, or may not, choose to pursue GURR's development plans in whole, in part, or not at all. Given these additional uncertainties, along with the technical flaws with the development plans already identified in the Town's pleadings in opposition to GURR's motion for a preliminary injunction, GURR cannot meet its burden of showing that it is "likely that [its] plans will come to fruition." *Girard v. Youngstown Belt Ry. Co.*, 134 Ohio St. 3d 79, 91 (2012). That likelihood is a requirement for the claim that the Town's proposed taking is preempted by federal law, *id.* at 91-92, and the basis for GURR's claim that it is likely to succeed on the merits in this case.

Wherefore, the Town requests that this Court accept for filing the Supplemental Memorandum and the attached Verified Complaint.

TOWN OF HOPEDALE, THE HOPEDALE
SELECT BOARD, BY AND THROUGH ITS
MEMBERS GLENDA HAZARD, BERNARD
STOCK, AND BRIAN KEYES, AND THE
HOPEDALE CONSERVATION COMMISSION,
BY AND THROUGH ITS MEMBERS BECCA
SOLOMON, MARCIA MATTHEWS, AND
DAVID GUGLIELMI,

By their attorneys,

/s/ David S. Mackey

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Dated: January 31, 2023

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(A)(1)

I hereby certify that I conferred with counsel for the plaintiffs on January 31, 2023, in attempt to narrow the issues subject to this motion. Counsel represented that he would not object to the filing of the Supplemental Memorandum if the Court provided him with the opportunity to respond.

/s/ David S. Mackey

David S. Mackey

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system was sent electronically to counsel of record for all parties on this 31st day of January, 2023.

/s/ David S. Mackey

David S. Mackey