

Town of Naples Request for Intervenor Funds Application Stage,  
Case No. 15-F-0122: Application of Baron Winds LLC for a Certificate of  
Environmental Compatibility and Public Need Pursuant to Article 10 to  
Construct a Wind Energy Facility

**Attachment B**

Mindy Zoghlin, Esq.

4(a) Qualifications

6(a) Services to be Provided: Scope of Work

6(b) Basis of Fees

6(d) Contribution to the Compilation of a Complete Record

(9) Contract, Agreement, Proposed Contract or Proposed Agreement

# Mindy L. Zoghlin

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111 Moul Road, Hilton, NY 14468 • (585) 392-4066 (home)  
Mindy@Zoglaw.com • (585) 434-0790 • 300 State Street, Suite 502 • Rochester, NY 14614 (work)

## BAR MEMBERSHIP

New York State Bar, 1984  
United States District Court for the Western District of New York, 1992  
United States District Court for the Northern District of New York, 1996  
United States Court of Appeals for the Second Circuit, 2009  
United States Supreme Court, 2010

## EXPERIENCE

**The Zoghlin Group PLLC**, Rochester, NY  
*Sole Member and Senior Attorney*, July 2016 - Present  
**Bansbach Zoghlin P.C.**, Rochester, NY  
*Member and Senior Attorney*, April 1990 – June 2016  
**Lacy, Katzen, Ryen & Mittleman**, Rochester, NY  
*Associate Attorney*, 1987-1990

## EDUCATION

**SUNY Buffalo Law School**, Buffalo, NY  
Juris Doctor, February 1984  
▪ *Certificate of Specialization in State and Local Government*  
▪ *Baldy Fellowship in Law and Social Policy*  
**Brandeis University**, Waltham, MA  
B.S., Sociology, *Cum Laude with Highest Honors in Sociology*

## AWARDS

**40 Under 40**, Rochester Business Journal, 1998

## COMMUNITY INVOLVEMENT

- Member of the Monroe County, New York State and American Bar Associations.
- American Diabetes Association 2013 Tour de Cure Executive Committee.
- Served on the Board of Trustees of the Monroe County Bar Association, was past chair of the Monroe County Bar Association Environmental Law Committee currently co-chairs the Monroe County Bar Association Environmental Law Committee, past President and Board Member of the Greece Chamber of Commerce.

## SPEAKING ENGAGEMENTS

- 2017. Advanced Legal Issues Affecting Local Governments and Municipalities. Topic: "Drone Law."

- 2015 Learning from Environmental Horror Stories. Topic: "Perils & Pitfalls of Environmental Practice."
- 2015 NYSBA Environmental Law Section 6<sup>th</sup> Annual Spill Symposium. Facilitator: "Site Management Plans and Oil Spill Cleanups."
- 2012 Joint meeting of the American Society of Safety Engineers, Genesee Valley Chapter and the Finger Lakes Chapter of the Academy of Certified Hazardous Materials Managers. Topic: "Vapor Intrusion Case Studies"
- 2010 Toxic Torts Seminar sponsored by the Monroe County Bar Association. Topic: "Causes of Action, Affirmative Defenses, Pleadings, Case Evaluation and Practice Tips"
- 2005 Zoning, Subdivision Et Land Development Law Seminar, sponsored by Lorman Educational Services. Topic: "Suing Public Entities"
- 2004 Zoning and Land Use in New York Seminar, sponsored by Lorman Educational Services. Topics: "State Environmental Quality Review Act (SEQRA)" and "Land Uses of Particular Environmental Concerns"
- 2002 Basic Administration and Enforcement of Land Use Controls Seminar, sponsored by the New York State Bar Association. Topic: "Statutory Basis of Municipal Land Use Control"
- 2002 Land Use Decision-Making Training Program, sponsored by the Monroe County Department of Planning and Development. Topic: "The Planning Et Zoning Process"
- 2001 Land Use Decision-Making Training Program, sponsored by the Monroe County Department of Planning and Development. Topic: "The Planning Process"
- 1999 Making Deals Happen Seminar, sponsored by the Monroe County Bar Association, Program Chair
- 1996 Toxic Torts Seminar, sponsored by the New York State Bar Association. Topic: "Toxic Tort Remedies in New York"
- 1996 Environmental Law Survey Course, sponsored by the Center for Environmental Information. Topic: "Toxic Torts"
- 1995 Environmental Law Survey Course, sponsored by the Center for Environmental Information. Topic: "New York State Superfund Law"
- 1993 Environmental Law Survey Course, sponsored by the Center for Environmental Information. Topic: "New York State Superfund Law"
- 1992 Environmental Law Survey Course, sponsored by the Center for Environmental Information. Topic: "Federal Superfund Law"
- 1991 Environmental Law Survey Course, sponsored by the Center for Environmental Information. Topic: "Environmental Considerations in Real Estate and Business Transactions"

#### **REPORTED CASES**

- *Chart v. Town of Parma*, 2014 WL 4923166 (WDNY 2014) (Court found that pesticide contaminated topsoil relocated from a former apple orchard to town park was solid waste under RCRA).
- *JWJ Industries, Inc. v. Oswego County*, 795 F.Supp.2d 211 (NDNY 2011) (Court struck county Flow Control Law as unconstitutionally vague).

- *Oldfield v. Village of Dansville*, 583 F.Supp.2d 440 (WDNY 2008) (Rental property owners sufficiently alleged retaliation claim against municipal code enforcement officer).
- *Cleveland v. International Paper Co.*, 1997 U.S. Dist. LEXIS 8109; (Gender discrimination lawsuit).
- *Town of Ellery v. NYS DEC et ano*, 54 Misc. 3d 482 (Chautauqua Co. S.C. 2016) (Proposed expansion of solid waste management facility complied with substantive requirements of SEQRA).
- *Kindred v. Monroe County*, 119 AD2d 1347 (4<sup>th</sup> Dept. 2014) (Plaintiffs failed to establish standing to challenge County decision to relocate Fair).
- *Citizens for Aquifer Protection and Employment v. Town of Cortlandville*, 16 Misc. 3d 1121A (SC 2007) (Challenge to Town decision to accept SEQRA Findings Statement for construction of proposed Walmart Super Center).
- *Matter of Cerame v. Town of Perinton Zoning Bd. of Appeals*, 27 A.D.3d 1191 (4th Dept. 2006) (Challenge to Town ZBA decision to issue a negative declaration of environmental significance under SEQRA).
- *Cerame Irrevocable Family Trust v. Town of Perinton Zoning Bd. of Appeals (In re Concetta T.)*, 6 A.D.3d 1091 (4th Dept. 2006) (Challenge to ZBA administrative appeal).
- *Matter of Mari Properties, LLC v. Town of Parma Zoning Bd. of Appeals*, 21 A.D.3d 1381 (4th Dept. 2005) (Challenge to Town ZBA decision to deny variance applications).
- *Gilmore v. Planning Bd. of Ogden*, 16 A.D.3d 1074 (4th Dept. 2005) (Challenge to Town Planning Board decision granting site plan approval).
- *Landmark Society of Western New York v. Monroe County*, 4 A.D.3d 871 (4th Dept. 2004) (Challenge to County's decision to accept SEQRA Findings Statement for the Seneca Park Zoo expansion).
- *Wilcove v. Town of Pittsford Zoning Bd. of Appeals*, 306 A.D.2d 900 (4th Dept. 2003) (Challenge to ZBA decision to grant variances).
- *Wilcove v. Town of Pittsford Zoning Bd. of Appeals*, 306 A.D.2d 898 (4th Dept. 2003) (Challenge to ZBA decision to grant variances).
- *Noslen Corp. v. Ontario Co. Bd. of Supervisors*, 659, CA 02-00002, 295 A.D.2d 924 (4th Dept. 2002) (Challenge to County's SEQRA review related to proposed jail expansion).
- *Bergen Swamp Preservation Society v. Village of Bergen*, 294 A.D.2d 827 (4th Dept. 2002) (Challenge to Village decision to exercise eminent domain).
- *Tulley v. Bayfront North, Ltd.*, 286 A.D.2d 873 (4th Dept. 2001) (Action to establish the existence of an easement).
- *Lamendola v. Warner*, 181 Misc. 2d 1024 (SC, 1999) (Proceeding to challenge Town referendum petition).

- *Hunter's Crossing Neighborhood Association v. Maul*, 267 AD2d 1036 (4<sup>th</sup> Dept. 1999) (Nearby homeowners lacked standing to challenge suitability of proposed group home site).
- *Allens Creek/ Corbett's Glen Preservation Group v. Town of Penfield Planning Board*, 249 AD2d 921 (4<sup>th</sup> Dept. 1998) (Letter "Notice of determination" from town planning board to developer was not a "decision" on site plan approval and did not trigger statute of limitations).
- *Cleveland v. International Paper Co.*, U.S. Dist. LEXIS 15557, September 30, 1998, Decided, September 30, 1998. (Gender discrimination lawsuit).
- *Edgewood Estates Homeowners' Association, Inc. v. Mark IV Construction Co., Inc.*, 221 AD2d 984 (4<sup>th</sup> Dept. 1995) (Homeowners' Association's payment of attorneys' fees in settlement with individual homeowner was authorized expense).
- *Henning v. Rando Mach. Corp.*, 207 A.D.2d 106 (4<sup>th</sup> Dept. 1994) (Action seeking damages for diminution in property value caused by contamination from an adjacent property).
- *Brookview Homeowners' Association, Inc. v. Mark IV Construction Co., Inc.*, 178 AD2d 967 (4<sup>th</sup> Dept. 1991) (Construction company's obligation to pay maintenance assessments was limited by Declarations to any deficit in plaintiff's operating expenses).

MINDY L. ZOGHLIN, ESQ.

Mindy founded The Zoghlin Group, PLLC in 2016. She previously practiced with a Rochester law firm and the Pennsylvania Department of Environmental Resources.

Mindy represents individuals, small businesses, developers, citizens' groups, and municipalities in a wide range of environmental and land use matters including toxic tort and property damage cases, Article 78 proceedings, zoning and regulatory permitting proceedings. She also has substantial experience in a variety of other personal and commercial civil cases. Mindy's practice includes litigating in state and federal courts and counseling clients on ways to minimize and/or avoid litigation risks.

Mindy is admitted to practice in New York, The Commonwealth of Pennsylvania, the United States District Court for the Western and Northern Districts of New York, United States Court of Appeals for the Second Circuit and the United States Supreme Court.

Mindy is an avid yogi, holds a fifth degree black belt in Isshin-Ryu karate and is an amateur home wine maker.

#### ADMISSIONS

- New York State
- Pennsylvania
- United States Supreme Court
- United States Court of Appeals for the Second Circuit
- United States District Court for the Western District of New York
- United States District Court for the Northern District of New York

#### PROFESSIONAL ASSOCIATIONS

- Co-Chair of the Monroe County Bar Association Environmental Law Committee.
- Member of the Greater Rochester Association of Women Attorneys, Monroe County, New York State and American Bar Associations.
- Served on the Board of Trustees of the Monroe County Bar Association, was past President and Board Member of the Greece Chamber of Commerce.

#### REPORTED CASES

- *Cleere & Collins v. Frost Ridge Campground, LLC* (2017 WL 5506531) (Court upheld ZBA decision that concerts were a pre-existing nonconforming use of campground).
- *Chart v. Town of Parma*, 2014 WL 4923166 (WDNY 2014)(Court found that pesticide contaminated topsoil relocated from a former apple orchard to town park was solid waste under RCRA).
- *JWJ Industries, Inc. v. Oswego County*, 795 F.Supp.2d 211 (NDNY 2011) (Court struck county Flow Control Law as unconstitutionally vague).
- *Oldfield v. Village of Dansville*, 583 F.Supp.2d 440 (WDNY 2008) (Rental property owners sufficiently alleged retaliation claim against municipal code enforcement officer).
- *Citizens for Aquifer Protection Et Employment v. Town of Cortlandville*, 16 Misc. 3d 1121A (SC 2007) (Challenge to Town decision to accept SEQRA Findings Statement for construction of proposed Walmart Super Center).

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- Cerame Irrevocable Family Trust v. Town of Perinton Zoning Bd. of Appeals (In re Concetta T.), 6 A.D.3d 1091 (4th Dept. 2006) (Challenge to ZBA administrative appeal).
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- Tulley v. Bayfront North, Ltd., 286 A.D.2d 873 (4th Dept. 2001) (Action to establish the existence of an easement).
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- Cleveland v. International Paper Co., 1997 U.S. Dist. LEXIS 8109; (Gender discrimination lawsuit).
- Henning v. Rando Mach. Corp., 207 A.D.2d 106 (4th Dept. 1994) (Action seeking damages for diminution in property value caused by contamination from an adjacent property).

## SEMINARS

- 2017 Advanced Legal Issues Affecting Local Governments and Municipalities Seminar sponsored by NBI. Topic: "Drones: What Local Governments and Municipalities Need to Know Now."
- 2015 Learning from Environmental Horror Stories Seminar sponsored by the Monroe County Bar Association. Topic: "Perils & Pitfalls of Environmental Practice."
- 2015 NYSBA Environmental Law Section 6th Annual Spill Symposium. Facilitator: "Site Management Plans and Oil Spill Cleanups."
- 2012 Joint meeting of the American Society of Safety Engineers, Genesee Valley Chapter and the Finger Lakes Chapter of the Academy of Certified Hazardous Materials Managers. Topic: "Vapor Intrusion Case Studies"
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Request for Intervenor Funds  
Proposed Baron Winds Project  
Mindy L. Zoghlin, Esq.  
Attorney

**4(a) Qualifications**

Mindy L. Zoghlin will provide legal services to the Town of Naples (the Town) throughout this Article 10 matter. Ms. Zoghlin has represented individuals, small businesses, developers, citizens' groups, and municipalities in a wide range of environmental, zoning, historic preservation, land use, and energy matters. Her practice includes litigating in New York State and federal courts as well as counseling clients.

For additional background and qualifications, please see Ms. Zoghlin's resume on the prior pages of this Attachment B.

**6(a) Services to be Provided**

- 1) Application review and identification of legal issues.
- 2) Legal research with respect to Article 10 and regulations applicable to the issues raised in this matter.
- 3) Review and comment on drafts of pre-file testimony and consult with client.
- 4) Draft, revise, and consult on the briefs including brief, reply brief, brief on exceptions, and brief opposing exceptions.
- 5) Preparation for hearing.
- 6) Hearing participation.

**6(b) Basis of Fees**

The fee for legal services provided by Ms. Zoghlin (Zoghlin) is two hundred sixty dollars (\$260) per hour and for Sarah Lobe, the Associate Attorney at The Zoghlin Group, (Associate) the fee for legal services provided is two hundred and five dollars (\$205) per hour.

See chart on next page.

Estimated Time	Task	Attorney	Rate	Cost
10 hours	Application review and identification of legal issues.	Zoghlin	\$260 x 10 hrs	\$2,600
50 hours	Legal research with respect to Article 10 and regulations applicable to the issues in this matter.	Associate	\$205 x 50 hrs	\$10,250
48 hours	Review and comment on drafts of pre-file testimony and consult with client.	Zoghlin Associate	\$260 x 8 \$205 x 40	\$2,080 \$8,200
160 hours	Draft, revise, and consult on the briefs including brief, reply brief, brief on exceptions, and brief opposing exceptions.	Zoghlin Associate	\$260 x 40 \$205 x 120	\$10,400 \$24,600
80 hours	Preparation for hearing.	Zoghlin Associate	\$260 x 20 \$205 x 60	\$5,200 \$12,300
40 hours	Hearing participation.	Zoghlin	\$260 x 40	\$10,400
			<b>Total Estimated Cost</b>	<b>\$86,030</b>

**\$86,030 = Total estimated fees for legal services provided by The Zoghlin Group**

**6(d) Contribution to the Compilation of a Complete Record**

Legal services provided by Mr. Abraham and The Zoghlin Group as co-counsel will enable the Town of Naples to more effectively participate in the Article 10 process. These legal services for the Town of Naples will contribute to the compilation of a complete record by ensuring each relevant legal issue is properly identified, researched, analyzed, and addressed in order to fully understand this matter. Legal services will also be used to help coordinate and apply the work of experts in the Article 10 process, which will properly explain the proposed Baron Winds project's impacts on the Town of Naples. This will help to more fully capture and explain the overall appropriateness and impacts of the proposed Baron Winds project.

**(9) Contract, Agreement, Proposed Contract or Proposed Agreement**

For the Contract, Agreement, Proposed Contract or Proposed Agreement please see the following pages of this Attachment B.

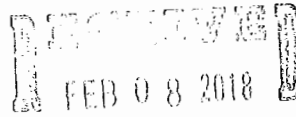
300 State Street, Suite 502, Rochester, New York 14614

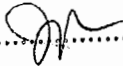


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January 3, 2018

Supervisor Tamara Hicks  
Town of Naples  
106 South Main Street  
P.O. Box 535  
Naples, New York 14512



BY: ..........

**RE: Baron Winds, LLC Wind Energy Project**

Dear Supervisor Hicks,

Thank you for considering the possibility of retaining us to represent the Town of Naples (the "Town") in connection with the proposed Baron Winds Energy Project ("Baron"). I understand from Gary Abraham that the Town would like to seek intervenor party status in the anticipated Article 10 proceeding before the New York Public Service Commission ("PSC") regarding an application by Baron Winds for a "Certificate of Environmental Compatibility and Public Need" authorizing the construction of 76 wind turbines with a combined rated capacity of up to 300 MW. The Town Board believes that Baron's project site result in adverse visual, noise, vibration and socioeconomic impacts, and that these impacts will be exacerbated by the cumulative effect this project would have when considered together with existing, operating wind projects in the area.

The scope of work for the Baron matter would be to advise the Town regarding the process and applicable rules in an Article 10 siting proceeding, and represent it in the above-referenced Baron proceeding at PSC. This will include advice to and from experts in technical subjects such as energy systems impacts and agricultural resources, as appropriate. If this proceeding results in a ruling adverse to you, we will provide advice on whether an appeal is warranted. However, the decision whether to undertake representation in any appeal must be agreed to in advance. We will co-counsel with Gary Abraham, Esq. Mr. Abraham and I will coordinate our efforts to avoid unnecessary duplication of effort. Work done by my law firm will be assigned

to the most capable team member with the lowest hourly rate. We believe that this method of managing workflow enables us to provide legal services to our clients faster and more economically. The effective date of this agreement will be January 1, 2018.

We will not require an initial retainer for fees or disbursements. We will bill the Town monthly for legal services described herein at the following discounted municipal rates:

Mindy Zoghlin, Esq.:	\$260/hour
Sr. Associate Attorney	\$225/hour
Associate Attorney:	\$205 /hour
Staff Attorney:	\$150/hour
Law Clerk:	\$115/hour
Legal Assistant:	\$115/hour

The time for which we are to be paid includes not only office conferences, research, analysis, travel and advice, but also the time involved in telephone calls, faxes, e-mail, and other forms of communication.

The Town will be responsible for all reasonable and necessary expenses associated with this matter. For example, expenses may be incurred for experts, filing fees, court and other governmental agency fees for certificates, long distance telephone calls, duplicating charges, telecopy charges, travel, postage and printing costs. The law firm may advance money to pay for these expenses and such costs will be included in the next bill.

Pursuant to Title 22 of the Official Compilations of Codes, Rules and Regulations of the State of New York ("NYCRR"), Part 1215, you are hereby informed that in the event you dispute the legal fee charged to you by this firm, you may, with certain exceptions, have the right to arbitration of fee disputes under Title 22 NYCRR, Part 137 of the Rules of the Chief Administrator.

The parties hope and expect that this will be a long-term relationship. Nonetheless, the Town may terminate this engagement at any time by notice in writing to us. Upon receipt of such notice, subject to such court approval as may be necessary in the context of the situation, we will promptly cease providing any service to you. The Town will be responsible for paying for our services rendered up to the time we receive such notice and for such reasonable services that we provide thereafter in connection with the transfer of responsibility for the matters we are handling at that time to your new counsel.

We may terminate this engagement by giving you 30 days prior written notice. Upon termination of our representation, the Town will be responsible for paying for our services rendered up to the time we terminate our engagement and for such reasonable services that we provide thereafter in connection with the transfer of responsibility for the matters we are handling at that time to your new counsel.

We will diligently and faithfully represent you and look forward to working with you on this matter. However, we cannot guarantee the outcome of any claim.

If the foregoing terms are acceptable to the Town, please sign and return a copy of this letter at your earliest convenience.

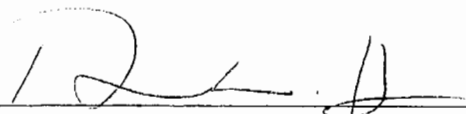
I look forward to working with you on this important matter.

Sincerely,



Mindy L. Zoghlin

The Town of Naples agrees to these terms. \* See cover letter.



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Town of Naples  
By Supervisor Tamara Hicks