

Below please find the Village's response to the College's 6.30.11 press release. The College's press release is quoted in regular text. The Village's response is in bolded italics. The Village is not responding to every quote or paragraph. This would be unproductive. Only the major issues are addressed.

COD Challenges Glen Ellyn Officials to List Legitimate Health and Safety Concerns

June 30, 2011 - Within an hour of concluding what College of DuPage believed to be a productive session on Tuesday morning with Glen Ellyn officials pertaining to building and inspection information, the Village filed for injunctive relief in the courts in an attempt to prevent the College from occupying four of its newly constructed buildings in August. At no time during their meeting with the College did Village officials discuss their intention to file an injunction that same day.

The Village agrees that this was a productive meeting and that the College and Village officials should focus on following up on that meeting and solutions.

The Village did not file for injunctive relief, but asked the court for permission to file additional pleadings to the College's lawsuit against the Village should the current proposed certification solution not work out. The Village will request a Temporary Restraining Order preventing occupancy soon if no progress is made.

The Village informed the College of this action the Friday before the Tuesday meeting took place to avoid any surprises. [Letters to the College Officials and Attorney can be found here.](#)

"The Village says in public that they are attempting to find a cooperative resolution, but does this sound like a cooperative approach? On the same day they met with the College, they filed in court to prevent our state-of-the-art teaching and learning facilities from opening," COD Board of Trustees Chairman David Carlin said. "If these tactics are allowed to stand, it could adversely impact the lives of the thousands of students we educate from around the district. We will do all we can to prevent Village officials from hurting our teaching and learning this fall."

Please see above. In addition, the Village has provided a no-cost, no-court solution to the College involving Certificates of Compliance to be signed and inspections to be completed. The two sides seem to be working together on this solution. If the College's statements that certified professionals have Peer Reviewed and Site Observed the structures three times are accurate, the certificates of compliance should be relatively easy to secure.

The Tuesday morning meeting was an effort by the College to answer any questions the Village may have regarding inspection information previously

provided. In addition, the College had previously provided an additional "certificate of compliance" from registered licensed architects and engineers to satisfy Village concerns about responsibility for building code compliance. Providing certificates of compliance is above and beyond normal practice. During the meeting, Village officials acknowledged they have never asked for such additional assurances from anyone else.

The Certificates of Compliance offered by the College were accepted and appreciated, yet needed more information which the Village immediately informed the College. After not receiving feedback from the College on the Certificate of Compliance forms by July 1 as indicated, the Village provided the exact Certificate of Compliance forms needed from the College's construction design and engineering professionals and a document clearly identifying which ones are needed from whom.

The Village never asked for such additional assurances from anyone else because it is customary development practice to obtain a building permit and allow buildings to be inspected as they are being constructed. This did not take place with the College's new structures.

"They requested inspection reports, a meeting and a tour of College facilities. We provided the reports in a timely manner and conducted the meeting and tour," Chairman Carlin said. "At no time have they pointed to anything that is a health or safety issue."

"The question should be whether the College's certificates satisfy the core concern of appropriate code compliance by the architects," COD President Robert L. Breuder said. "The simple answer is yes. Our architects are taking legal responsibility for the health and safety of their work, which at the end of the day is what the Village wants."

The Village responded at Tuesday's meeting with its own interpretation of a certificate of compliance, to which College officials agreed to review and respond. The College was not afforded this opportunity.

The College and its construction design and engineering professionals are being afforded every opportunity to sign the appropriate Certificates of Compliance forms. In fact, if the forms are completed by Friday, July 8th, inspections can take place the following week and the Village Board can consider issuing Certificates of Occupancy for the new structures at its July 18, 2011 meeting.

A release issued after the meeting from the Village states, "The Village proposed such a certification system because the College never applied for building permits nor allowed the buildings to be inspected." The College has never prevented Village officials from entering its buildings. In fact, the Village inspectors, Fire Chief and Building Department head have repeatedly visited the construction sites. The College has maintained from the beginning that it is not

legally required, per Illinois Community College Board Regulations, to apply for the permits cited by the Village.

Prior to the tour offered by the College, on June 28th, a Village building inspector was in one of the new building construction areas on only one brief occasion and only for the purpose of evaluating the status of the completion of the work. However, the Village elevator inspector continues to conduct normal inspections of the existing and new elevators. No other Village inspectors have been in the new buildings. The College previously informed the Village that Village inspectors were not welcome on the construction sites but as of July 7th have invited inspection.

The Illinois Community College Board code states that community college development must be in compliance with "any local Building Codes that may be more restrictive than codes listed above." The College petitioned the ICCB to change this language in September 2010. The ICCB has not acted on this request.

"The Village's latest action affirms that their concern is not as they have publicly stated, the health, welfare and safety of people connected to the College," President Breuder said. "Rather it is simply about power and control. College officials made clear from the outset the best way to resolve this conflicting point of view is through the court system. We proceeded in that direction and were asked by the Village repeatedly to desist and work together toward crafting a mutually acceptable intergovernmental agreement. The College did this, and on April the 18th reached an agreement with the Village for a new intergovernmental agreement which was approved by the COD Board of Trustees but not by the Village of Glen Ellyn."

The College unilaterally canceled the 2007 Intergovernmental Agreement and rescinded its approval of the proposed 2011 IGA.

The Village seeks no power or control as evidenced by its willingness to negotiate the IGAs. The Village seeks only to uphold those obligations which the law states it must.

Village officials in attendance on Tuesday morning included Interim Village Manager Terry Burghard, Village Planning and Development Director Staci Hulseberg, Building and Zoning official Joe Kvapil and B&F Technical Code Services Inspector Ken Garrett. Officials then inspected the soon-to-be completed Homeland Security Center (HEC), the Culinary & Hospitality Center (CHC) and renovations and additions to the Berg Instructional Center (BIC). Burghard and Hulseberg declined to go on the tour. Village officials who inspected the facilities informed College officials that construction standards were exemplary.

No inspections were conducted. The College described the Village's visit as a tour, not an inspection, in all other discussions and correspondence.

No inspection was conducted and no such statement was made by any Village official. Dr. Breuder asked the Village's Building and Zoning Official if he agreed that the quality of the buildings was at a high level. He responded that the interior finishes and fixtures he saw during the tour appeared to be of high quality. There was no discussion of construction standards.

The Village has never and will never contend that the College did not or does not have the safety of new construction at the foremost of its objectives or that less than high quality materials and construction professionals were used in the College's development. The Village's goal - and obligation in the absence of any other governmental authority - is to inspect the new structures to ensure they comply with all applicable building codes. The Certificates of Compliance and inspections may well do that.

“The College has been following the protocols mutually agreed upon with the Village to provide all appropriate documentation upon request,” President Breuder said. “The meeting and campus tour were part of the College’s overture to address any remaining concerns held by Village officials. At the end of the day, the Village officials who went on the tour felt the buildings were well constructed, exceeding the standards used by others in the Village. For the Village to then turn around within the hour and file for injunctive relief is incomprehensible and a further waste of tax dollars.

The Village has not yet filed, hoping that the Certificates of Compliance and inspection solution works. It reserves its right to do so soon if no progress is made. The College has taken the Village to court twice and filed a lawsuit against the Village.

“If there is a ray of hope that we can find common ground, those seeds had been planted during Tuesday’s meeting.” President Breuder said. “Everything they need to say ‘yes’ is in the Village’s hands. Now is the time to step back and ask two simple questions: Are these buildings safe for the community and for students? Are the College and its building professionals taking legal responsibility for their work? Clearly, the answer is yes. If there was ever a time to stop the gamesmanship, now is that time. Our next communication to the public should be about how the Village and the College have found a way to work together for the benefit of the people that we serve. That is responsible government.

The Village wholeheartedly agrees with the last three sentences.

“We challenge the Village to provide a legitimate, bona fide list of health, welfare and safety issues that they have identified that the College has refused to address,” President Breuder said. “I do not believe they can meet this challenge, but I would very much like to see the public hold them to it. It would demonstrate

with certainty that, for Village leadership, this process has been about control, not the welfare of the people we serve.”

There is no challenge. The buildings have not been reviewed or inspected through a building permit process as is customary with all development in DuPage County. If there were any, no health and safety issues could have been identified since the Village was not permitted to inspect the buildings during construction.

The Village has offered the College the creative solution of having its construction professionals certify that all applicable codes were adhered to during the development of the College's new structures by signing Certificates of Compliance. The exact certificate forms and what is needed from whom were given to the College and its construction professionals. It is hoped the certificates will be received soon and followed by spot inspections by the Village, thus allowing the Village Board to consider Certificates of Occupancy in a timely manner. [The certificates and the submission document can be found here.](#)

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