

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LISA KRAGNES and all others similarly situated,

Plaintiff,

Vs.

CITY OF DES MOINES, IOWA,

Defendant.

Law No. CE 49273

**ORDER ON MOTION TO QUASH  
AND  
PROTECTIVE ORDER**

FILED  
POLK COUNTY, IA.  
2008 MAR -3 PM 1:10  
CLERK DISTRICT COURT

BE IT REMEMBERED that on the 25<sup>th</sup> day of February, 2008, the mater of the Defendant City of Des Moines' Application to Quash the Subpoena directed to Springsted Incorporated and for a Protective Order was before the Court. The Court FINDS:

The Defendant City of Des Moines asserts on behalf of the expert witness, Springsted Incorporated, that Springsted Incorporated has a properly protected confidential interest in: (1) The proprietary processes and systems developed by Springsted Incorporated for the purpose of calculating direct and/or indirect costs to the City of Des Moines relating to the presence of utilities in the City's right-of-way; and (2) Any and all trade secrets produced in connection with this litigation that would fall into the purview of Iowa Code Section 22.7(3). Plaintiff asserts that she has not had the ability to see any such information and cannot agree at this point that any such information is properly protected confidential information. Likewise, the Court has not seen this information. Accordingly, the Court cannot, at this time, determine if the information is or is not information which should be permanently protected by a protective order. However, it light of the assertions of

the Defendant City of Des Moines and the expert Springsted Incorporated that such information is to be properly protected confidential information, the Court determines the better process is to protect this information until the matter can be further determined, as needed and at the request of a party and after production of the documents. Accordingly, a Protective Order should be entered and the Motion to Quash should be granted but only to the extent as controlled by this Protective Order.

**THEREFORE, IT IS ORDERED AS FOLLOWS:**

1. The expert witness Springsted Incorporated shall, within 10 days of the date of this Order, produce to Plaintiff all documents requested in the Subpoena and notice of document deposition attached as Exhibit "A" to the Defendant's Motion to Quash. This information shall be provided in Des Moines as set out in the notice of deposition and subpoena.

2. The Defendant City of Des Moines and/or the expert witness Springsted Incorporated, shall identify all material they consider confidential. It shall be marked accordingly so as to not interfere with the understanding or content of the material.

3. Any documents or information not so marked or designated as confidential when produced shall not be subject to any of the protective provisions of this Order.

4. The Plaintiff shall have the right to make a copy in paper and/or electronic format at her choice and in the manner she chooses. The Defendant and the expert witness shall fully cooperate as to any such choice made by the Plaintiff.

5. Until otherwise ordered by the Court, the documents and information protected by this protective order shall be used solely for the purpose of this litigation and for no other purpose.

6. Until otherwise ordered by the Court, the documents and information subject to this protective order shall not be disclosed to anyone except for the named Plaintiff; Plaintiff's counsel, staff and support personnel; any experts or consultants hired by Plaintiff in the processing of this cause of action; and any witnesses as needed by the parties.

7. Until otherwise ordered by the Court, any person to whom the documents or information protected by this protective order are disclosed by Plaintiff's attorneys in accordance with the provisions of this order shall be notified by Plaintiff's attorney of the existence of this protective order at the time of disclosure and the Plaintiff's attorney shall secure the signature of the person to whom such is disclosed on a document that binds the person to the terms of this protective order.

8. Until otherwise ordered by the Court as set out herein, in the event that the parties wish to use the documents and information protected pursuant to this protective order in depositions, affidavits, briefs or other papers filed in court in

this litigation, such information shall be treated confidentially and in accordance with this order and filed and maintained under seal of the court.

9. During the processing of this case and upon review of the documents and information produced as protected information under this protective order, either party hereto may request the Court to conduct an *in camera* inspection or review of the documents and information protected under this Order to determine whether such information should properly be designated as properly protected confidential information or whether such information should be de-designated as protected information. Both parties, and the expert witness Springsted Incorporated, shall have, at that time, full opportunity to present to the Court any and all evidence and arguments relating to that issue.

10. Until otherwise ordered by the Court, unless otherwise agreed to in writing by the parties, all proceedings, other than a trial in open court, involving the information and documents subject to this consent protective order shall be conducted *in camera*.

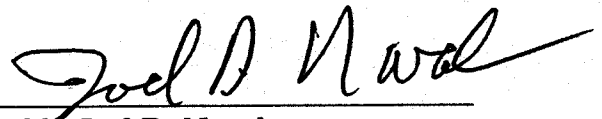
11. Until otherwise ordered by the Court, nothing contained in this order, and no action taken pursuant to this order, shall prejudice the right of the parties to contest the alleged relevancy or admissibility of any documents and information protected by this protective order.

12. Until otherwise ordered by the Court, within thirty (30) days after the conclusion of this litigation, whether by appeal or otherwise, the parties shall address with the Court the disposition of all documents subject to this consent

protective order, including photocopies and other copies thereof, as well as all other information derived in any way therefrom and reduced to documentary form, (or digital form).

13. Failure to abide by the terms of this order may subject the individual, the party, the expert witness and/or his, her or its counsel to sanctions for contempt of court.

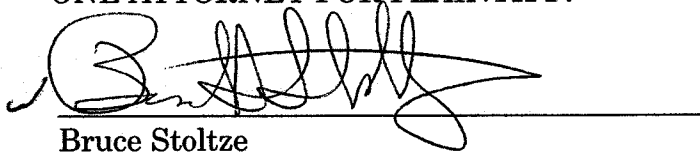
Signed this 3 day of March, 2008.



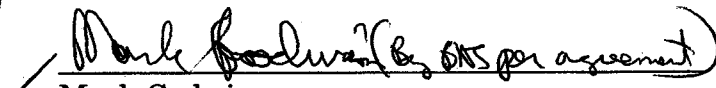
Honorable Joel D. Novak  
Judge, 5<sup>th</sup> Judicial District

FORM OF ORDER AGREED TO:

ONE ATTORNEY FOR PLAINTIFF:

  
Bruce Stoltze

ATTORNEY FOR DEFENDANT

*dkw 3-3-08*  
  
Mark Godwin