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NOTE: This was an early draft of our letter to *The Herald-Leader* that exceeded the word limitation. In the last sentence of our published response, we invited readers to visit the KBER web page for this more detailed response to Mr. Childers. Thank you for your interest in this matter.

Hank Graddy

WHERE THE CITY OF MIDWAY HAS DENIED SEWAGE TREATMENT FOR THE KENTUCKY BLUEGRASS EXPERIENCE RESORT RV PARK, THE BOARD OF ADJUSTMENTS MUST ALLOW KBER PERMISSION TO APPLY FOR A PERMIT FOR A PRIVATE WASTEWATER TREATMENT PLANT.

Attorney Joe Childers wrote a misleading opinion as part of his efforts to demonize the Kentucky Bluegrass Experience Resort. KBER was granted a Conditional Use Permit by the Woodford County Board of Adjustments on May 3, 2021, to operate an RV park for overnight guest accommodations on 390 RV sites and 82 cottages.

Prior to that vote, KBER owner Andrew Hopewell and planner Joey Svec met with the Mayor of Midway and the Woodford County Judge Executive during the summer of 2020 to describe their plans. They received enthusiastic support from these county leaders. They commissioned a feasibility study in the Fall of 2020. Based upon that study and the positive support they had received throughout the Woodford County community, in November 2020, KBER bought Elkwood Farm from the Mitchell family.

Because the Elkwood Farm includes 98 acres in Woodford County and 142 acres in Scott County, when they applied for a Conditional Use Permit for Tourist Destination Expanded on March 17, 2021, their proposed development plan illustrated a potential full development of the property at 390 RV sites in Woodford County and 428 RV sites on Scott County. The Woodford BOA only has jurisdiction in Woodford County and only approved 390 RV sites.

That application received a letter of support from the Woodford County Chamber of Commerce, saying, "The Chamber is delighted to support this initiative and to welcome the RV Resort Park to Woodford County, Kentucky!" The application was also supported by the Woodford County Tourism Commission, saying, "This resort park will contribute to the brand of Woodford County and as seen in their plans. we believe will be good stewards of the land, air and our community as a whole." The Woodford Economic Development Authority and the Woodford Forward also wrote letters support.

The application, letters of support and related documents can be found on the KBER web page at: KBER.info.

On May 4, 2021, the day after the BOA approved the KBER application, Midway Mayor Vandergrift sent Andrew and Joey an email, stating, *"I'm so happy to have heard last night that your plans were approved by the BOA. We are very excited about this opportunity to grow Midway's tourism and local economic potential. Please let me know if I can help with anything. As you all get an idea of how much sewer capacity you'll be using, let me know and we can start talking services. Cheers."*

This all began to change when Joe Childers was retained and when he and his clients and others began their attack on this project. He has continued to refer to this proposal as having "over 1,000 RV sites" when it has never had over 390 RV sites. In response to criticism that this proposal was "too big," KBER has withdrawn its application for a permit in Scott County.

On September 20, KBER submitted its request that Midway City Council approve providing municipal sewer treatment to the KBER for 472 guest sites (390 RV and 82 cottage sites), to be developed in two phases, with plans to reduce the Woodford County RV sites if sites were approved Scott County. The Scott County application has now been withdrawn.

Mr. Childers continues to incorrectly describe this proposal as "one of the largest in the eastern United States." KBER submittals to the Midway City Council and the public compare the 98 acres of the Woodford County site to Lake Rudolph, Santa Claus Indiana with 533 guest accommodations on 120 acres, Yogi Bear Jellystone Park, Mammoth Cave, Kentucky with 384 guest accommodations on 74 acres, and the most comparable site at Carolina Pines, Conway, South Carolina with 840 guest accommodations on 110 acres.

Mr. Childers continues to refer to "hundreds of oversized RV's ...traveling through downtown Midway." If fact, the KBER Traffic Study projected that about 16% of the traffic to the KBER site would come from the Nashville direction and that at 100% occupancy that would add 23 vehicles at the peak pm hour. Where the park will average about 60% occupancy year-round, that will average 14 vehicles per peak hour. KBER will mitigate that potential impact by instructing all guests coming from the Nashville area to exit the Bluegrass Parkway at US 127 and travel to the park on I-64 from Frankfort, so they can avoid the railroad tracks on Main Street in Midway.

Mr. Childers was successful in helping the Midway City Council vote to deny municipal sewer service to KBER.

Where KBER has been granted a conditional use permit for this RV Park and where KBER asked for municipal sewage treatment for that park from the nearest facility, but was denied that request, KBER has no other option but to build its own private sewage treatment plant. That is the reason KBER has sought a modification of one of the conditions of the May 3, 2021, conditional use permit.

KBER engineers have identified EarthTek, as one of the best the best private package treatment plant installers in the United States. Kevin Chafee, P.E., owner, testified at the Board of Adjustments meeting on December 6, 2021, concerning this state-of-the-art treatment technology. KBER requested a conditional use amendment to allow KBER to apply to the Division of Water for a discharge permit issued pursuant to the Clean Water Act. The facility that EarthTek will install will meet wastewater treatment standards that equal or exceed the Midway Sewage Treatment Plant. For example, the EarthTek facility will be able to meet numeric nutrient limits that the Midway facility does not have to meet.

The EarthTek facility will be connected to newly constructed sewage lines, so it will not experience inflow and infiltration problems that the Midway facility struggles with. KBER planners and engineers have committed to install green infrastructure features that keep the “first flush” of rainfall onsite, minimizing stormwater runoff. KBER has committed to a reforestation plan along the banks of the Elkhorn Creek to create a more effective riparian buffer than is currently in place. These features will ensure that the Elkhorn Creek will be protected from adverse impacts from the KBER resort park.

Mr. Childers complains that KBER would not delay the December BOA meeting as he requested. He failed to note that KBER has requested the opportunity to meet with him and his clients since his client, Sara Day Evans asked KBER on June 14, 2021, if KBER was willing to negotiate. KBER answered yes, and we wrote to request such a meeting. Mr. Childers has declined to every invitation to meet with KBER for a variety of reasons.

As a Midway resident and Woodford County attorney and as a committed environmental advocate, I am honored to have been asked to represent KBER after the opposition hired Mr. Childers. In the face of the opposition, we realize we will need to proceed more slowly than we planned.

We look forward to completing this development and providing Woodford County and the Bluegrass Region with a new Tourist Destination, and guests who will help the economies of Georgetown, Midway and Versailles, and beyond. We are pleased to report that we have received the near unanimous support from the Midway Merchants Association.

KBER owns the land with a conditional use permit for a Tourism Destination Expanded in the Agricultural Zone. KBER needs to provide its guests with permitted and regulated sewage treatment. Where the City of Midway has denied KBER’s request for such service, KBER should be given the permission to apply to the Kentucky Division of Water for a modern private package treatment plant. The Board of Adjustments should vote YES on the KBER amendment request.

Hank Graddy is the attorney for Kentucky Bluegrass Experience Resort