

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

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LEWIS FAMILY FARM, INC.,

Petitioner,

-against-

ADIRONDACK PARK AGENCY,

Respondent.

AFFIRMATION

Index No. 315-08

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STATE OF NEW YORK)
) ss:
COUNTY OF ESSEX)

PAUL VAN COTT, an attorney licensed to practice law in the courts of the State of New York, affirms under penalty of perjury:

1. I am an Associate Attorney for the Adirondack Park Agency (the "Agency") and have served as the Agency's Enforcement Counsel since 2001. I supervise the Agency's enforcement program, including a Senior Attorney and six enforcement officers. In this role, I am responsible for administrative enforcement of the Agency's laws and regulations, including in the Town of Essex, Essex County.

2. I am familiar with the file in this matter and spoke by telephone on April 30, 2008 with David Lansing, Code Enforcement Officer for the Town of Essex, Essex County, concerning the status of septic systems serving Petitioner's three single family dwellings that are the subject of this proceeding. The facts stated herein are based upon my review of the file in this matter and upon information and belief based upon my conversation with Mr. Lansing.
3. Petitioner placed three modular single family dwellings on the subject property in Resource Management, on lands within the designated Boquet River Recreational River area, without an Agency permit. Exhibit A, which was an exhibit in the Agency's administrative enforcement proceeding, documents the approximate location of these three dwellings.
4. The Agency's file contains a copy of one Certificate of Occupancy issued by the Town of Essex allowing occupancy of Structure 1 on Exhibit A. According to Mr. Lansing, Certificates of Occupancy have not been issued for Structures 2 and 3 on Exhibit A. Thus, only Structure 1 is authorized by the Town of Essex for occupancy as of this date.

5. In Finding of Fact 5 (Page 3) of the Adirondack Park Agency Enforcement Committee's March 25, 2008 Determination, the Committee found that Lewis Family Farm, Inc. had installed a common septic system for the three single family dwellings. This finding was supported by ¶ 14 of the January 17, 2008 Affidavit of Barbara Lewis and its Exhibits E and F, who stated that the three single family dwellings were "serviced by a common septic system and leach field". See, Exhibit B hereto. It is also supported by the July 23, 2007 Affidavit of John Quinn and its Exhibit A consisting of Petitioner's partial application to the Agency for permits for its three single family dwellings. See, Exhibit C hereto.
6. In its determination, the Committee required Petitioner to obtain an Agency permit prior to any occupancy of the single family dwellings. As part of its review of Petitioner's permit application, Agency staff would require Petitioner to demonstrate that the alleged, common septic system (or any septic system serving any of the single family dwellings) complies with New York State Department of Health and Adirondack Park Agency standards and guidelines. To ensure that Petitioner provided the necessary

ensure that Petitioner provided the necessary information in this regard, the Enforcement Committee, in ¶ 2(b) of its determination, expressly required Petitioner to provide an evaluation of whether the alleged, common septic system for the three single family dwellings complies with those standards and guidelines.

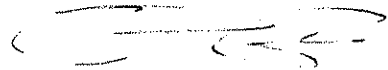
7. It is my understanding from Mr. Lansing that there is not a common septic system serving the three single family dwellings. Rather, Mr. Lansing advised me that the septic system serving Structure 1 is actually the same septic system that served the pre-1973 single family dwelling that has been removed from the subject property. Agency staff have not reviewed that septic system for compliance with New York State Department of Health and Adirondack Park Agency standards and guidelines. Based on my understanding of the size of that system from Mr. Lansing, it would not meet New York State Department of Health standards and guidelines as a common septic system for three single family dwellings.
8. According to Mr. Lansing, septic systems for the other two single family dwellings, or a common system to serve all three of the single family dwellings, has

Petitioner has, however, applied for and obtained permits for installing new septic systems for all three single family dwellings from the Town of Essex.

See, Exhibit D.

9. Prior to authorizing use of a pre-existing septic system, the Agency would typically require an engineering evaluation to determine whether or not it complies with New York State Department of Health and Adirondack Park Agency requirements. This is to ensure that the septic system is designed to be adequately protective of the environment. The Town of Essex does not apply consider Adirondack Park Agency septic requirements when reviewing septic systems.



DATED: Ray Brook, New York
May 2, 2008



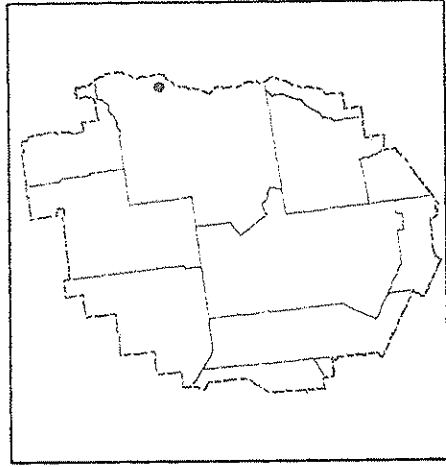
Paul Van Cott, Esq.

E2007-41
Approximate Structure Location
Exhibit

Land Use Classification

-  Hamlet
-  Resource Management

Vicinity Map



Adirondack Park Agency
 MSK 3/03/08

0.25 Miles

