

STATE OF NEW YORK SUPREME COURT
ESSEX COUNTY

LEWIS FAMILY FARM, INC.,

Plaintiff,

Index No. 000498-07
R.J.I. No. 15-1-2007-0153

v.

NEW YORK STATE ADIRONDACK
PARK AGENCY,

Defendant.

PLEASE TAKE NOTICE that, upon the affirmation of John Banta, Counsel to the Adirondack Park Agency, dated July 23, 2007; and the affirmation of Sarah Reynolds, dated July 20, 2007, and exhibits thereto; and the affidavit of John L. Quinn, sworn to July 23, 2007 and exhibits thereto; and the affidavit of Douglas Miller, sworn to July 20, 2007, and exhibits thereto; and the accompanying memorandum of law, defendant APA will move this Court, at a Special Term thereof to be held on the 8th day of August, 2007, at 1:30 pm, at the Essex County Courthouse, Elizabethtown, New York, or as soon thereafter as counsel may be heard, for an order:

- (1) converting this declaratory judgment to a CPLR Article 78 proceeding pursuant to CPLR 103(c);
- (2) dismissing this complaint for lack of subject matter jurisdiction pursuant CPLR § 3211(2);
- (3) dismissing this complaint as premature and not ripe for

judicial review because the State defendant has not issued a final determination in its review of the permit application and therefore the court lacks jurisdiction pursuant CPLR Article § 7801 (1);

(4) dismissing the complaint for failure to state a cause of action pursuant to CPLR § 3211(7), because Agriculture and Markets Law § 305-a does not preclude the APA from requiring a permit for subdivision of land and construction of single family dwellings;

(5) rejecting plaintiff's request for injunctive relief for failure to establish the elements required for injunctive relief;

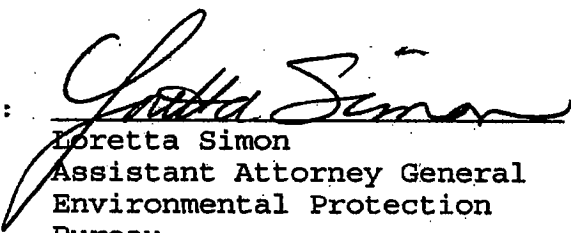
(6) such other and further relief as the Court deems just and appropriate.

In the event the State defendant's motion to dismiss is denied in whole or in part, the State defendant respectfully requests 30 days after service of notice of entry of the order denying this motion in which to serve an answer to the complaint.

Dated: Albany, New York
August 1, 2007

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State of New York
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