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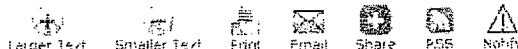


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Knocking down the APA

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Shove back and you might knock the bully on his butt.

Earlier this month, the Adirondack Park Agency took such a fall in the state appeals court its staffers should be seeing stars for a month.

On July 16, the Appellate Division upheld the ruling of the Essex County Supreme Court that Salim Lewis, a farmer in Essex, was entitled to build farmworker housing without an APA permit.

The judges ruled, 5-0, that farmworker houses are "agricultural use structures" outside APA jurisdiction.

The judges pointed out that the state constitution and the APA law itself make the promotion of agriculture a priority, outside the Adirondack Park or inside it.

APA lawyers argued the agency values farming but, in this case, should be allowed to tell a farmer what to do.



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Those familiar with the agency know "acquiring jurisdiction" over a project is the euphemism the agency's staff uses for torturing a project to death.

Its staffers use their regulatory authority to toy with the Adirondack property owner, contractor, or farmer, knocking him about with requests for information and demands for this change and that one until, exhausted, he concedes.

They employ a strategy of bureaucratic rope-a-dope, which allows them to pretend to work with local communities while pleasing their real constituency — the environmental lobby.

This lobby includes rich people who summer in the Adirondacks and support advocacy groups like the Adirondack Council, and political operatives like Judith Enck, Gov. Paterson's deputy secretary for the environment.

This lobby decided, long ago, that sacrificing the economies of places like Elizabethtown and Au Sable Forks was an acceptable price for preserving and expanding the Adirondack wilderness.

And the members of this lobby are willing, as they were in this case, to endorse mendacious arguments — such as, houses for farmworkers are not agricultural structures — in service to their cause.

Their bad faith behavior is justified by their noble purpose, they think.

The appellate judges thought otherwise, and their decision makes clear the agency's jurisdiction cannot be forever expanded at the whim of its staff.

Their ruling exposes the bully's vulnerabilities and gives Adirondackers hope they will see the APA on its butt more often.

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COMMENTS

willdoolittle wrote on Aug 7, 2009 1:37 PM:

"I believe I am pointing out the abuses of a powerful agency, not trying to stoke an us vs. them mentality. I agree with you -- following the law is the important thing. When I have "blasted" the agency, as in this case, it has been when they have, in my opinion, exceeded their legal mandate. The court agreed, in this case, that the APA exceeded its legal authority and, if you read the opinion, it wasn't even a close call. The judges ruled 5-0 that the APA's actions ran counter to the clear intent of the law. My primary complaint with the APA has always been that it fails to follow the law."