

APA should be accountable

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Anytime you set out to persuade a judge that a legal argument should never have been made, you face an uphill battle.

Most judges were lawyers first. And lawyers make their living arguing over interpretations of the law — often, in the process, making the case for novel or unlikely interpretations.

But the Adirondack Park Agency argument in the Lewis Farm case in Essex, in which the agency asserted that houses for farm workers were not agricultural use structures, was so contrary to the plain meaning of the law, I think it's possible a court will decide it never should have been made.

Salim "Sandy" Lewis won the case versus the APA when a state appeals court ruled 5-0 that the houses he built for farm workers were, indeed, agricultural use structures and, as such, outside APA jurisdiction.

Not only is the Adirondack Park Agency supposed to exempt agricultural activities from the zoning authority it exercises over the Adirondack Park, the agency is, by law, supposed to encourage agriculture in the park.

But, in this case, as in many others, those who run the agency — both in its staff and on its board — deferred not to state law but to the dictates of their desire to keep the park wild and to minimize the impact of the human population.

Many people agree with the goal of preserving the Adirondack wilderness, and they have formed a powerful environmental lobby, with allies throughout state government.

Their advocacy for wilderness is worthwhile. But their willingness to reach their goals by endorsing illegitimate enforcement actions by the Adirondack Park Agency has undermined their cause.

The APA has been allowed to become a rogue agency, ignoring the laws that created it and violating the rights of landowners who lack the resources to fight it.

This case turned out differently from many in the past because this landowner had the money and the moxie to fight back.

Now Sandy Lewis is suing to make the APA cover his legal fees. State law requires that, in cases where the state's action was not "substantially justified," the state pay the legal fees of the other party.

In their Lewis Farm decision, the appellate judges referred to the "clear statutory language" and the "clear and unambiguous statutory terms" that compelled them to rule against the APA.

The agency's staffers can read. They knew they were twisting the law beyond any legitimate shape, but they pushed ahead anyway, in bad faith.

The court should make them pay.

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