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STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ESSEX

ESSEX COUNTY CLERK  
ELIZABETHTOWN NY 12932

LEWIS FAMILY FARM, INC.,

**NOTICE OF MOTION**

Petitioner,

**ACTION NO. 1**

-against-

ADIRONDACK PARK AGENCY,

Index No. 315-08

Respondent.

Hon. Richard B. Meyer

**SENT TO THE COURT**

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ESSEX

8/13/09  
Joseph A. Provoncha,  
Essex County Clerk  
Clerk, Supreme and  
County Courts

ADIRONDACK PARK AGENCY,

Plaintiff,

**ACTION NO. 2 /**  
**COUNTERCLAIM**

-against-

LEWIS FAMILY FARM, INC.,  
SALIM B. LEWIS and BARBARA LEWIS,

Index No.: 332-08

Hon. Richard B. Meyer

Defendants.

**PLEASE TAKE NOTICE** that upon the annexed Affirmation of John J. Privitera, Esq., dated August 12, 2009, the Affidavit of Salim B. Lewis, sworn to August 13, 2009, and upon all prior papers and proceedings had in these consolidated actions, the undersigned will move the Hon. Richard B. Meyer, Acting Supreme Court Justice, at an Individual Assignment Term to be held in the County of Essex, at the Essex County Courthouse, 7559 Court Street, Elizabethtown, New York, on **September 4, 2009, at 9:30 a.m.** of that day, or as soon thereafter as counsel can be heard, for an order pursuant to Article 86 of the CPLR awarding attorneys fees and other expenses to Petitioner-Defendant Lewis Family Farm, Inc. in the amount of \$208,770.06, plus

any fees incurred if the State of New York opposes this motion, and granting such other or further relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to CPLR 2214(b), answering affidavits and cross-motions, if any, shall be served at least seven (7) days before the return date.

Dated: August 13, 2009  
Albany, New York

**McNAMEE, LOCHNER, TITUS & WILLIAMS, P.C.**

By: 

John J. Privitera, Esq.

Jacob F. Lamme, Esq.

*Attorneys for Lewis Family Farm, Inc.,*

677 Broadway

Albany, New York 12207

Tel. No. (518) 447-3200

Fax No. (518) 426-4260

TO: Loretta Simon, Esq.  
Assistant Attorney General  
State of New York  
Office of the Attorney General  
The Capitol  
Albany, New York 12224

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ESSEX

LEWIS FAMILY FARM, INC.,

**AFFIRMATION**

Petitioner,

**ACTION NO. 1**

-against-

ADIRONDACK PARK AGENCY,

Index No. 315-08

Respondent.

Hon. Richard B. Meyer

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ESSEX

ADIRONDACK PARK AGENCY,

Plaintiff,

**ACTION NO. 2 /  
COUNTERCLAIM**

-against-

LEWIS FAMILY FARM, INC., SALIM B. LEWIS  
and BARBARA LEWIS,

Index No.: 332-08

Hon. Richard B. Meyer

Defendants.

**AFFIRMATION IN SUPPORT OF LEWIS FAMILY FARM'S MOTION  
TO RECOVER FEES AND EXPENSES PURSUANT TO CPLR ARTICLE 86**

**JOHN J. PRIVITERA**, an attorney at law duly admitted to practice in the courts of the State of New York, swears and affirms under penalty of perjury as follows:

1. I am duly licensed and admitted to practice law in the State of New York, and I am a shareholder of the law firm of McNamee, Lochner, Titus & Williams, P.C., attorneys for Petitioner-Defendant Lewis Family Farm, Inc. ("Lewis Family Farm"). As such, I am fully familiar with the pleadings and proceedings had in this action, and with the matters set forth herein.

2. On July 16, 2009, the Appellate Division, Third Department, issued a Memorandum and Order that unanimously affirmed this Court's Decision and Order of November 19, 2008, which annulled the administrative determination of the Adirondack Park Agency of March 25, 2008 for being affected by a clear error of law. A copy of the Appellate Division's Memorandum and Order is attached hereto as **Exhibit "A"**.

3. I make this affirmation in support of the Lewis Family Farm's motion pursuant to CPLR's New York State Equal Access to Justice Act ("EAJA") for an award of reasonable counsel fees and expenses.

4. The following information is based on the daily time records dutifully kept by McNamee, Lochner, Titus & Williams, P.C. in connection with the above-captioned action.

5. The law firm of McNamee, Lochner, Titus & Williams, P.C. maintains its office at 677 Broadway, Albany, New York 12207. The firm has thirty-two (32) attorneys, several of whom have extensive experience in environmental, land use, litigation and tax related matters.

6. I am the department chairman for my firm's Environmental Department. I have thirty-one (31) years of experience representing the environmental and litigation needs of my clients. As the primary attorney on this case, I was assisted by primarily by my associate Jacob F. Lamme, who has three (3) years of experience in environmental and litigation matters.

7. Beginning with the administrative proceeding below, this case has been pending for nearly twenty-four (24) months.

8. As of August 10, 2009, the Lewis Family Farm has incurred fees and is obliged to pay a total of \$287,292.69 to my firm in connection with the services provided in this matter, beginning in September 2007.

9. Of the counsel fees and expenses incurred to date by the Lewis Family Farm, \$78,522.63 relate to defending the Agency's illegal administrative action. These fees are not recoverable under the EAJA. See Greer v. Wing, 95 N.Y.2d 676, 680 n.2 (2001).

10. The Lewis Family Farm also incurred fees in the amount of \$126,783.75 in the above-captioned civil action, which was commenced to seek judicial review of the Agency's illegal and punitive administrative determination of March 25, 2008, and \$66,931.25 to defend against the Agency's unsuccessful appeal of the final judgment rendered by this Court.

11. The total number of hours expended by my firm in connection with this matter since March 25, 2008 is:

Attorney	Admission	Billed Hours	Rate	Total
John J. Privitera (Shareholder)	1978	340.25	\$300.00 / hr.	\$102,075.00
Jacob F. Lamme (Associate)	2006	620.65	\$175.00 / hr. <sup>1</sup>	\$97,533.75
Francis J. Smith (Shareholder)	1981	3.90	\$250.00 / hr.	\$975.00
Jeremy H. Speich (Associate)	2003	3.25	\$185.00 / hr.	\$601.25
Mathew P. Barry (Associate)	2004	0.90	\$175.00 / hr.	\$157.50
Francine R. Vero (Associate)	2007	3.70	\$125.00 / hr.	\$462.50
Law Clerk	N/A	18.50	\$75.00 / hr.	\$1,387.50
<b>TOTALS</b>		<b>991.15 hrs.</b>		<b>\$203,192.50</b>

<sup>1</sup> On February 26, 2009, Mr. Lamme's billing rate increased from \$150.00 to \$175.00 per hour.

12. From September 2007 until present, the Lewis Family Farm incurred expenses in the amount of \$5,577.56.

13. My firm has maintained daily records detailing the expenses and hourly services, as well as the nature of the work performed on particular issues that arose in the case. These records, which describe in detail the services rendered were kept contemporaneously with the performance of the services described therein, are attached hereto as **Exhibit "B"**.

14. In addition to the fees incurred during the civil action and the subsequent appeal, the Lewis Family Farm is entitled to recover the reasonable counsel fees incurred for the preparation of the instant motion under the EAJA. See Fritz v. Principi, 264 F.3d 1372, 1377 (Fed. Cir. 2001) (holding that fees incurred in the preparation and defense of a fee application under the EAJA are recoverable); Prowest Diversified v. United States, 40 Fed. Cl. 879, 890 (Fed. Cl. 1998) (awarding fees incurred for 57.6 hours required to research and draft a fee application under the EAJA); Trichilo v. Secretary of Health & Human Svcs., 832 F.2d 743, 744 (2d Cir. 1987) (holding that a successful litigant is entitled to an award for the time spent preparing and litigating an EAJA fee application).

15. In general, fees awarded for the preparation of a fee application should generally not exceed five percent (5%) of the total fees sought. In re By-Rite Oil Co., 87 B.R. 905, 917 (Bankr. D. Mich. 1988). The Lewis Family Farm has incurred fees of \$9,827.50 for the 57.55 hours expended for the preparation of this fee application, and such fees are less than five percent (5%) of the fees sought for the professional work rendered in this case.

16. The fees and expenses due and payable to my firm by the Lewis Family Farm, and therefore sought on this motion, are fair and reasonable based upon (a) the time and labor required; (b) the novelty and difficulty of the questions involved; (c) the skill required to perform

the service properly; (d) my firm's customary fees for such work; (e) the time limitations and pressures borne by my firm; (f) my firm's experience, reputation and ability; and (g) the nature and length of the professional relationship with the client.

17. Based on the foregoing, the Lewis Family Farm respectfully asks this Court to enter an order granting an award of counsel fees and expenses in the amount of \$208,770.06 in favor of the Lewis Family Farm, plus any additional fees incurred if the State of New York opposes this motion, and granting such other and further relief as the Court deems just and proper.

I hereby swear and affirm the above under penalty of perjury this 12th day of August, 2009.

McNAMEE, LOCHNER, TITUS & WILLIAMS, P.C.

A handwritten signature in black ink, appearing to read 'John J. Privitera', is written over a horizontal line.

John J. Privitera, Esq.  
*Attorneys for Lewis Family Farm, Inc.*  
677 Broadway  
Albany, New York 12207  
Tel. (518) 447-3200  
Fax (518) 426-4260

Exhibit A



STATE OF NEW YORK SUPREME COURT  
APPELLATE DIVISION THIRD DEPARTMENT

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LEWIS FAMILY FARM, INC.,

Appellant,

-against-

**NOTICE OF ENTRY**

ADIRONDACK PARK AGENCY,

Case # 504626 / 504696

Respondent.

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**PLEASE TAKE NOTICE** that the within is a true copy of the Memorandum and Order of the Appellate Division, Third Department dated and entered by the Clerk on July 16, 2009.

Dated: July 16, 2009  
Albany, New York

McNAMEE, LOCHNER, TITUS & WILLIAMS, P.C.

By. 

Jacob F. Lamme, Esq.  
*Attorneys for Appellant*  
677 Broadway  
Albany, New York 12207  
(518) 447-3200

TO: Julie Sheridan, Esq.  
Assistant Solicitor General  
Loretta Simon, Esq.  
Assistant Attorney General  
State of New York  
Office of the Attorney General  
The Capitol  
Albany, New York 12224

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: July 16, 2009

504626  
504696

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In the Matter of LEWIS FAMILY  
FARM, INC.,  
Appellant,

v

NEW YORK STATE ADIRONDACK PARK  
AGENCY,  
Respondent.

(Proceeding No. 1.)

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In the Matter of LEWIS FAMILY  
FARM,  
Respondent,

v

ADIRONDACK PARK AGENCY,  
Appellant.

MEMORANDUM AND ORDER

(Proceeding No. 2.)

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ADIRONDACK PARK AGENCY,  
Appellant,

v

LEWIS FAMILY FARM, INC., et al.,  
Respondents.

(Action No. 1.)

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Calendar Date: May 27, 2009

Before: Mercure, J.P., Rose, Kane, Kavanagh and Garry, JJ.

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McNamee, Lockner, Titus & Williams, P.C., Albany (John J. Privitera of counsel), for Lewis Family Farm, Inc., appellant and respondent, and Salim Lewis and another, respondents.

Andrew M. Cuomo, Attorney General, Albany (Julie M. Sheridan of counsel), for New York State Adirondack Park Agency, respondent and appellant.

Cynthia Feathers, Saratoga Springs, for New York Farm Bureau, amicus curiae.

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Garry, J.

Appeals (1) from a judgment of the Supreme Court (Ryan, J.), entered August 29, 2007 in Essex County, which converted an action for declaratory judgment into a proceeding (No. 1) pursuant to CPLR article 78 and granted respondent's cross motion to dismiss the petition in proceeding No. 1, (2) from a judgment of said court (Meyer, J.), entered July 2, 2008 in Essex County, which, in proceeding No. 2 pursuant to CPLR article 78 and action No. 1, partially denied a motion by the Adirondack Park Agency to dismiss certain causes of action in proceeding No. 2 and partially granted defendants' motion to dismiss the complaint in action No. 1, and (3) from a judgment of said court (Meyer, J.), entered November 21, 2008 in Essex County, which, among other things, granted petitioner's application, in proceeding No. 2 pursuant to CPLR article 78, to annul a determination of respondent Adirondack Park Agency directing petitioner to apply for a permit and pay a \$50,000 civil penalty.

Lewis Family Farm, Inc. (hereinafter Lewis Farm) owns and operates a large organic farm in the Town of Essex, Essex County, within the Adirondack Park and within an agricultural district. In the fall of 2006, Lewis Farm obtained a building permit from the Town and began building three single-family dwelling units on the farm to be used to house farm workers. After construction began, Lewis Farm submitted an application to the Adirondack Park

Agency (hereinafter the APA) for a permit under the APA's authority. The APA determined that the application was incomplete and requested additional information. A disagreement ensued, and the APA eventually issued a cease and desist order prohibiting Lewis Farm from completing the construction until the dispute was resolved. Lewis Farm commenced an action for a judgment declaring that the APA lacked jurisdiction over the project and enjoining it from interfering with the construction. Supreme Court granted the APA's motion to convert the action to a CPLR article 78 proceeding (proceeding No. 1). The court then found that the APA had jurisdiction to enforce the permit requirement, but dismissed the petition as unripe because the APA had not yet issued a final determination. Lewis Farm appeals from this judgment.

The APA thereafter conducted an administrative enforcement proceeding that resulted, in March 2008, in a determination that by constructing the farm housing without an APA permit, Lewis Farm had violated the Adirondack Park Agency Act (see Executive Law art 27 [hereinafter the APA Act]) and the Wild, Scenic and Recreational Rivers System Act (see ECL 15-2705, 15-2709 [hereinafter the Rivers System Act]). The APA directed Lewis Farm to apply for an "after-the-fact" permit and pay a \$50,000 civil penalty.

Lewis Farm challenged this determination in a new proceeding under CPLR article 78 (proceeding No. 2), and the APA commenced an action against Lewis Farm and its principals, defendants Salim Lewis and Barbara Lewis, to enforce its administrative determination. Supreme Court joined these matters and, in July 2008, determined, among other things, that collateral estoppel did not bar any of the claims raised by Lewis Farm and dismissed the individual defendants. The APA also appeals from this judgment.

Subsequently, the parties cross-moved for summary judgment as to the APA's causes of action for enforcement of its administrative determination. In November 2008, Supreme Court, among other things, granted Lewis Farm's application in proceeding No. 2 and annulled the APA's March 2008 administrative

determination. The court also granted summary judgment to Lewis Farm dismissing the APA's amended complaint in the enforcement action. The APA appeals from this judgment.

The APA Act creates a comprehensive land use plan that classifies all land within the Adirondack Park into six land use categories and sets forth primary and secondary compatible uses for each category (see Executive Law § 805). The APA Act establishes specific uses as class A and class B regional projects in each of the six land use categories (see Executive Law § 810), grants jurisdiction to the APA to review and approve all class A regional projects and certain class B regional projects (see Executive Law § 809 [1]), and requires those who plan to undertake such projects to apply beforehand to the APA for a permit (see Executive Law § 809 [2] [a]).

The farm is located in a "resource management" land use area (see Executive Law § 805 [3] [g]). In such areas, "agricultural use structures" are primary compatible uses that are neither class A nor class B regional projects and are exempt from APA jurisdiction and permit requirements, so long as they are located a sufficient distance from neighboring river shorelines (see Executive Law § 805 [3] [g] [4] [2]; § 810 [1] [e]; [2] [d]; 9 NYCRR 577.6 [b] [3]). Where, as here, there is no approved local land use program, construction of a "single family dwelling" in a resource management area is a class B regional project that requires a permit from the APA (see Executive Law § 810 [2] [d] [1]). Similarly, the River Systems Act accords jurisdiction to the APA to regulate the use of privately owned land in the immediate environs of certain river systems (see ECL 15-2701, 15-2705, 15-2709 [1]). The disputed construction site on the farm is located within a "recreational river" area that is subject to APA permit requirements under the regulations implementing the River Systems Act (see 9 NYCRR 577.4, 577.5 [c] [1]). However, "agricultural use structures" that otherwise comply with regulatory requirements are exempt from these permit requirements (see 9 NYCRR 577.4 [b] [3] [ii]; see also ECL 15-2709 [2] [c]). The resolution of these appeals depends on whether the disputed housing units on the farm are "single family dwelling[s]" as the APA determined in its

administrative enforcement proceeding and therefore subject to the APA's jurisdiction and permit requirements under the APA Act and the River Systems Act, or "agricultural use structure[s]" exempt from such requirements, as determined by Supreme Court.

The APA Act sets out definitions for 68 words and phrases and provides that "[a]s used in this article, unless the context otherwise requires, [the defined] words and terms shall have the meaning ascribed to them" (Executive Law § 802). A "single family dwelling" is defined as "any detached building containing one dwelling unit, not including a mobile home" (Executive Law § 802 [58]). An "agricultural use structure" is "any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use" (Executive Law § 802 [8] [emphasis added]). The implementing regulations for the River Systems Act use the same definition of an "agricultural use structure" (see 9 NYCRR § 577.2 [b]). A "structure" is "any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles and any fixtures, additions and alterations thereto" (Executive Law § 802 [62]). The APA Act further defines "agricultural use" as "any management of any land for agriculture; . . . horticulture or orchards; including the sale of products grown or raised directly on such land" (Executive Law § 802 [7]).

As a preliminary matter, Supreme Court properly concluded that it was not required to defer to the APA's interpretation of the APA Act and the River Systems Act as the agency charged with their enforcement (see Matter of Trump-Equitable Fifth Ave. Co. v Gliedman, 57 NY2d 588, 597 [1982]). "'[P]ure legal interpretation' of clear and unambiguous statutory terms" such as the language at issue here requires no such deference because there is little or no need to rely on any special expertise on the agency's part (Kennedy v Novello, 299 AD2d 605, 607 [2002], lv denied 99 NY2d 507 [2003], quoting Matter of Toys "R" Us v Silva, 89 NY2d 411, 419 [1996]; see Matter of Raritan Dev. Corp. v Silva, 91 NY2d 98, 102 [1997]). The APA's March 2008

administrative determination rested entirely on statutory interpretation, and neither that interpretation nor its application required "'knowledge and understanding of underlying operational practices or entail[ed] an evaluation of factual data and inferences to be drawn therefrom'" (Town of Lysander v Hafner, 96 NY2d 558, 565 [2001], quoting Kurcsics v Merchants Mut. Ins. Co., 49 NY2d 451, 459 [1980]).

We further agree with the conclusion reached by Supreme Court that the disputed housing units on the farm are "agricultural use structure[s]" within the meaning of the APA Act. The primary goal of statutory interpretation is "to 'ascertain and give effect to the intention of the Legislature'" (Matter of Emigrant Bancorp, Inc. v Commissioner of Taxation & Fin., 59 AD3d 30, 33 [2008], quoting Riley v County of Broome, 95 NY2d 455, 463 [2000]; accord Matter of DaimlerChrysler Corp. v Spitzer, 7 NY3d 653, 660 [2006]). "To that end, '[t]he statutory text is the clearest indicator of legislative intent and courts should construe unambiguous language to give effect to its plain meaning'" (Matter of Emigrant Bancorp, Inc. v Commissioner of Taxation & Fin., 59 AD3d at 33, quoting Matter of DaimlerChrysler Corp. v Spitzer, 7 NY3d at 660). "A court must consider a statute as a whole, reading and construing all parts of an act together to determine legislative intent and, where possible, should harmonize[] [all parts of a statute] with each other . . . and [give] effect and meaning . . . to the entire statute and every part and word thereof" (Friedman v Connecticut Gen. Life Ins. Co., 9 NY3d 105, 115 [2007] [internal quotation marks and citations omitted]).

Applying these precepts, Supreme Court examined the text of the pertinent statutory definitions and construed statutorily-defined terms or phrases within each definition by reference to the other definitions and by reading them in the context of the APA Act as a whole. Accordingly, the court concluded that, since a "single family dwelling" is included within the statutory definition of a "structure," and an "agricultural use structure" includes any "building or structure directly and customarily associated with agricultural use," it was rational to conclude that a single family dwelling that is "directly and customarily

associated with agricultural use" falls squarely within the statutory definition of an "agricultural use structure" and is therefore exempt from APA regulation (Executive Law § 802 [8]). With regard to whether farmworker housing is "directly and customarily associated with agricultural use," the court took note of a related, though not controlling, statutory analysis determining that farmworker residences "contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise" (Agriculture and Markets Law § 301 [11]) and are therefore "farm operations" exempt from local zoning regulation under Agriculture and Markets Law § 305-a (see Town of Lysander v Hafner, 96 NY2d at 562). We agree with Supreme Court that there is no reason to conclude that the Legislature intended a different result within the Adirondack Park. Thus, although the farmworker residences constructed on the farm fall within the statutory definition of "single family dwelling[s]," they are also "agricultural use structure[s]" exempt from APA jurisdiction because they are "directly and customarily associated with agricultural use."

This conclusion is consistent with the APA Act's proclamation that the need to "protect, manage and enhance" agricultural resources within resource management areas is of "paramount importance," that such areas are of "considerable economic importance to segments of the park," and that the purposes and objectives of resource management areas include "encourag[ing] proper and economic management of . . . agricultural . . . resources" (Executive Law § 805 [g] [1], [2]). It is likewise consistent with the APA Act's explicit instruction that "[the APA's] rules and regulations . . . shall exclude . . . bona fide management of land for agriculture, livestock raising, horticulture and orchards . . . from review under this section" (Executive Law § 815 [4] [b]). It is further consistent with the constitutionally-mandated state policy to "encourage the development and improvement of its agricultural lands for the production of food and other agricultural products" (NY Const, art XIV, § 4) and with the legislative directive that "[i]t shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to



this end" (Agriculture and Markets Law § 305 [3]). Nothing in any of these provisions suggests, as the APA argues, that New York's strong pro-farming policy should apply differently to farms within the Adirondack Park than to farms elsewhere in the state.

The statutory language does not, as the APA contends, evince a legislative intent for the word "structure" in the definition of "agricultural use structure" (Executive Law § 802 [8]) to mean an "accessory structure." This term is specifically defined in the APA Act (see Executive Law § 802 [5]), and the Legislature had the opportunity to use it if it had intended to limit the definition of "agricultural use structures" accordingly. It did not do so (see People v Tychanski, 78 NY2d 909, 911 [1991]; People v Dan, 55 AD3d 1042, 1044 [2008], lv denied 12 NY3d 757 [2009]; McKinney's Cons Law of NY, Book 1, Statutes, § 74). The APA's interpretation would require this Court to disregard the clear statutory language (see Matter of Trump Equitable Fifth Ave. Co. v Gliedman, 57 NY2d at 592) and render the word "structure" as used in the definition of "agricultural use structures" meaningless (see SIN, Inc. v Department of Fin. of City of N.Y., 71 NY2d 616, 621 [1988]).

Contrary to the APA's contention, the rule of ejusdem generis, by which general statutory language is limited by the specific phrases preceding it, is inapplicable because the general language at issue – here, the word "structure" – is separately defined and, therefore, "is definite and has a precise meaning" (Johnson v Hudson Riv. R.R. Co., 49 NY 455, 455 [1872]). Further, "the rule of ejusdem generis is only a rule of construction; it must yield to the Legislature's evident purpose in enacting the statute" (Mark v Colgate Univ., 53 AD2d 884, 886 [1976]).

Finally, the separate treatment of "single family dwellings" and "agricultural use structures" in some provisions of the APA Act does not compel the conclusion that the Legislature intended the terms to be mutually exclusive. For example, Executive Law § 802 (50) (g) provides that for the purpose of applying the APA Act's density guidelines to farm

land, "all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his [or her] employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building" (emphasis added). As Supreme Court noted, the definition of an "agricultural use structure" is broader in scope than that of a "single family dwelling," and not all single family dwellings located on farms will qualify as agricultural use structures. Thus, listing them separately, here and throughout the APA Act, was necessary to ensure that the provision applied to single family dwellings whether or not they also qualified as agricultural use structures. Nothing in the APA Act precludes a single family dwelling that is "directly and customarily associated with agricultural use" from qualifying as an agricultural use structure (Executive Law § 802 [8]).

Supreme Court properly concluded that the dwelling units constructed for farmworker housing on Lewis Farm's land are "agricultural use structure[s]" within the meaning of Executive Law § 802 (8) and are therefore exempt from APA jurisdiction and permit requirements. This determination renders academic the parties' claims with regard to the court's earlier judgments.

Mercure, J.P., Rose, Kane and Kavanagh, JJ., concur.

ORDERED that the judgments are affirmed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack  
Clerk of the Court



DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
03/26/08	JJP	2.50	300	\$750.00	Study opinion; review opinion terms and appeal rights with Sandy Lewis review follow up proceedings in conference with Sandy Lewis and Barbara Lewis; research state issues; telephone calls regarding stay with APA attorney.
03/26/08	JFL	3.25	150	\$487.50	Reviewed APA's determination; legal research regarding availability of stay; conferences with John J. Privitera regarding strategy.
03/27/08	JJP	0.50	300	\$150.00	Follow up with Sandy Lewis regarding status and strategy.
03/27/08	JFL	0.25	150	\$37.50	Meeting with John J. Privitera regarding Article 78 petition.
03/28/08	JJP	1.25	300	\$375.00	Review stay issues; telephone call with APA regarding stay; telephone call with Sandy Lewis regarding status of dispute and filing of petition.
03/28/08	JFL	0.25	150	\$37.50	Meeting with John J. Privitera regarding Article 78 and motion for stay.
03/31/08	JJP	0.75	300	\$225.00	Draft portions of brief and telephone call with Sandy Lewis regarding same.
04/01/08	JJP	0.75	300	\$225.00	Outline briefing issues with Jacob Lamme and research; review status and strategy with Barbara Lewis.
04/02/08	JJP	1.50	300	\$450.00	Series of telephone conferences with Sandy Lewis regarding strategy and review petition and stay issues.
04/02/08	JFL	5.50	150	\$825.00	Extended attention to drafting petition for Special Proceeding review of Agency's Determination.
04/03/08	JJP	1.00	300	\$300.00	Draft portions of petition and stay documents and telephone call with Sandy Lewis regarding same.
04/03/08	JFL	5.75	150	\$862.50	Legal research regarding stay under CPLR 7805; extended attention to order to show cause and memorandum of law in support; meeting with John J. Privitera regarding same.
04/04/08	JJP	1.25	300	\$375.00	Conferences with Sandy Lewis regarding status and strategy; draft portions of Petition and Stay materials.
04/04/08	JFL	6.00	150	\$900.00	Continued legal research on stays in Art. 78 proceedings; finished drafts of Petition, Memorandum in Support; Affidavits of John J. Privitera and Barbara Lewis; meeting with John J. Privitera.
04/07/08	JJP	7.25	300	\$2,175.00	Conference with the Farm Bureau; draft Petition and Motion for Stay.
04/07/08	JFL	7.75	150	\$1,162.50	Extended attention to Article 78 Petition, affidavits and Memorandum in Support of Stay; teleconferences with Essex County Clerk and Supreme Court Clerk.
04/08/08	JJP	2.50	300	\$750.00	Telephone calls with Sandy Lewis; correspondence with the Farm Bureau; telephone calls with opposing counsel and review correspondence and papers relating to motion for stay.
04/08/08	JFL	11.25	150	\$1,687.50	Travel to and from Elizabethtown, Plattsburgh, and Ray Brook; presented Order to Show Cause to Judge Meyer; served Order and Petition upon Attorney General and APA.
04/09/08	FJS	0.40	250	\$100.00	Conference with John J. Privitera re possible motion to Appellate Division for stay pending appeal
04/09/08	JJP	3.00	300	\$900.00	Telephone calls with opposing counsel; draft letter to the Judge; revise order to show cause; review status and strategy with Sandy Lewis and correspondence relating thereto.
04/09/08	JFL	1.75	150	\$262.50	Meeting with John J. Privitera; attention to Article 78, Motion for Stay; and affidavits of service.
04/10/08	FJS	0.60	250	\$150.00	Conference with John J. Privitera re stay; obtain motion papers
04/10/08	JJP	3.50	300	\$1,050.00	Work with Jacob Lamme and Fran Smith on stay issues; telephone call with Appellate Division and review draft order and strategic issues with Sandy Lewis
04/10/08	JFL	7.00	150	\$1,050.00	Attention to amended verified petition; meetings with John J. Privitera and Francis J. Smith; attention to proposed Order granting stay; research in preparation for hearing.
04/11/08	JJP	9.50	300	\$2,850.00	Prepare for, travel to and attend oral argument in front of Judge Meyer in Elizabethtown on Motion for Stay; follow up telephone calls with Sandy Lewis.
04/11/08	JFL	7.25	150	\$1,087.50	Attention to APA's opposition to stay; conferences with John J. Privitera; extended attention to issues surrounding stay and options re: appeal.
04/12/08	JJP	1.75	300	\$525.00	Work on cross appeal papers.
04/12/08	JFL	4.75	150	\$712.50	Teleconference with John J. Privitera re: appellate strategy; attention to Order to Show Cause for Appellate review of Judge Meyer's Order and Amended Petition.
04/13/08	JFL	8.10	150	\$1,215.00	Extended attention to appellate strategy, Order to Show Cause and Affirmation in Support; legal research and conference with John J. Privitera.
04/14/08	FRV	3.70	125	\$462.50	Legal research - the power to order a dwelling vacant lies solely with local government authorities; discussions with Jacob Lamme, Esq. and Town of Essex personnel; searched the county and town of Essex websites and town of Essex town code.
04/14/08	JJP	7.00	300	\$2,100.00	Draft series of motions including supplemental motion for stay and motion to consolidate; amend petition and study new complaint filed by Attorney General's office; series of telephone calls with Sandy Lewis and Barbara Lewis
04/14/08	JFL	11.25	150	\$1,687.50	Extended attention to motion to reargue and renew motion for stay; extended attention to motion to consolidate actions; conferences with John J. Privitera; attention to Amended Petition.
04/15/08	JFL	3.00	150	\$450.00	Served Loretta Simon, Esq. with motions; teleconference with Essex Clerk regarding Notice of Appeal in previous action; prepared Appellate papers regarding automatic stay.
04/15/08	JJP	2.25	300	\$675.00	Series of conferences with Sandy Lewis regarding status and strategy; review Appellate strategy and prepare for possible appeal; discuss issues with journalists.
04/16/08	JJP	2.00	300	\$600.00	Series of conferences with Sandy Lewis regarding Motion for a Stay and case status; respond to press inquiries; draft portions of Stay document regarding motion to renew and reargue.
04/17/08	JJP	1.25	300	\$375.00	Series of conferences regarding press inquiries; conference with Farm Bureau and various attorneys regarding hiring for an amicus group; outline strategy for motion to renew stay.
04/18/08	JJP	1.25	300	\$375.00	Outline new affidavits in support of motion to renew the stay.
04/21/08	JJP	3.00	300	\$900.00	Series of telephone conferences with the Press; telephone conference with the Court regarding scheduling; outline and file new motion to renew stay.
04/21/08	JFL	2.25	150	\$337.50	Teleconference with John J. Privitera regarding APA's cross-motion to transfer; legal research regarding same.
04/22/08	JJP	1.75	300	\$525.00	Attention to Attorney General's cross motion and issues regarding stay.
04/22/08	JFL	8.25	150	\$1,237.50	Extended attention to APA's cross-motion to transfer; drafted memorandum of law in opposition and John J. Privitera Affirmation; teleconferences with Essex County Clerk and client; reviewed APA's motion papers opposing motion to reargue the stay; conferences with John J. Privitera.
04/23/08	JJP	3.75	300	\$1,125.00	Extended conferences with Sandy Lewis regarding status and strategy; attention to and response to Attorney General's cross motion regarding stay.
04/23/08	JFL	1.75	150	\$262.50	Teleconferences with client; revised and finalized memorandum of law in opposition to APA's cross-motion to transfer actions to Justice Ryan.
04/24/08	JJP	2.75	300	\$825.00	Outline Third Department motion for Stay; conferences with Sandy Lewis regarding same.

DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
04/24/08	JFL	0.25	150	\$37.50	Attention to press coverage; conference regarding strategy of appellate motion to extend time to perfect appeal at Justice Ryan's decision.
04/25/08	JFL	1.25	150	\$187.50	Attention to Judge Meyer's Decision; conference with John J. Privitera regarding appellate strategy.
04/27/08	JFL	1.50	150	\$225.00	Legal research regarding status quo; revised Appellate Motion papers.
04/28/08	FJS	0.40	250	\$100.00	Telephone conference call with motion clerk of Appellate Division and J. Privitera and J. Lamme
04/28/08	JJP	8.00	300	\$2,400.00	Prepare motion for stay, prepare for argument and appear before Judge Leslie Stein regarding efforts to extend stay; follow up paperwork and revisions of order to show cause; telephone conference with Farm Bureau regarding amicus brief and follow up calls with Sandy Lewis regarding status.
04/28/08	JFL	7.25	150	\$1,087.50	Extended attention to Appellate Division Stay papers; conferences with John J. Privitera and Francis J. Smith; attended conference in Judge Stein's chambers; drafted Order to Show Cause; attention to bond issues.
04/29/08	JJP	2.50	300	\$750.00	Attention to finalization of papers for third department extension; review stay order and issues with Sandy Lewis.
04/29/08	JFL	4.25	150	\$637.50	Attention to filing and service of Appellate Motion for Stay; conference with John J. Privitera; draft proposed order on Motion for Consolidation and correspondence to Judge Meyer; e-mails with client.
04/30/08	JJP	0.50	300	\$150.00	Attention to septic system issues and compliance with Court Order for dormitory building; telephone call with Sandy Lewis.
04/30/08	JFL	0.25	150	\$37.50	Conference with John J. Privitera regarding briefing strategy.
05/05/08	JJP	2.00	300	\$600.00	Draft letter to Attorney General's office regarding septic; revise letter to be signed by Ferris; attention to filings on escrow; series of telephone conferences with Court Clerk, County Treasurer, Sandy Lewis and Barbara Lewis regarding status and review septic drawing.
05/06/08	JJP	1.25	300	\$375.00	Attention to extension of time to appeal and telephone calls regarding checks and reply papers relating thereto.
05/06/08	JFL	3.50	150	\$525.00	Attention to Motion to extend time to perfect appeal of Justice Ryan's Decision; drafted Notice of Motion and Affidavit in Support.
05/06/08	JFL	1.00	150	\$150.00	Attention to AG's motion papers in opposition to Appellate Division motion for a stay.
05/07/08	JJP	2.75	300	\$825.00	Rewrite and edit motion to enlarge time and reply papers; extended correspondence regarding amicus brief; research and write 308 letter and telephone call with Sandy Lewis regarding same.
05/07/08	JFL	5.50	150	\$825.00	Conferences with John J. Privitera; teleconferences with Judge Meyer's chambers and AG's office regarding briefing schedule; attention to Reply Affirmation for stay motion and motion to extend appeal time.
05/08/08	JJP	2.25	300	\$675.00	Collateral estoppel research; attention to APA's affidavit regarding septic; draft letter and telephone calls with Sandy Lewis regarding follow up letter from Buckley regarding septic system.
05/08/08	JFL	5.50	150	\$825.00	Extended attention to finalizing and filing motion to extend time to appeal and reply affidavit in motion for a stay; teleconference and e-mails with client; conference with John J. Privitera regarding Article 78 brief strategy; attention to Agency's sur-reply affidavit.
05/09/08	JFL	3.25	150	\$487.50	Attention to Affirmation in response to Shawn Lalonde's affidavit; drafted service letter to Attorney Simon; conferences with John J. Privitera; e-mail correspondence; filed and served response.
05/09/08	JFL	1.00	150	\$150.00	Began legal research re: advisory opinions and collateral estoppel for the Art. 78 brief.
05/10/08	JJP	1.25	300	\$375.00	Draft portions of brief regarding statutory definitions.
05/12/08	JJP	0.75	300	\$225.00	Review 1971 report regarding farming.
05/12/08	JFL	1.00	150	\$150.00	Teleconference with client re: status of Appellate motion; attention to legal research re: advisory opinions and collateral estoppel.
05/13/08	JFL	4.50	150	\$675.00	Attention to service issues and briefing schedule for enforcement action and fax 78 proceeding; teleconference with and letters to Loretta Simon, Esq.; conference with John J. Privitera regarding scheduling; legal research in preparation of Motion to Dismiss.
05/14/08	JJP	0.75	300	\$225.00	Conference with Cynthia Feathers regarding amicus brief focus and telephone call with Sandy Lewis regarding same.
05/14/08	JFL	1.00	150	\$150.00	Attention to briefing issues; drafted letter to Judge Meyer; teleconference and e-mail with John J. Privitera.
05/15/08	JJP	2.50	300	\$750.00	Attention to Attorney General's cross motion regarding Ryan decision and timing of appeal; telephone calls with Sandy Lewis regarding status and strategy.
05/15/08	JFL	2.25	150	\$337.50	Attention to Amended Complaint and Agency's cross-motion in Appellate Division; conference with John J. Privitera and began drafting opposition affidavit.
05/16/08	JJP	2.00	300	\$600.00	Attention to Attorney General's cross motion; telephone calls with Sandy Lewis; study new approach to Ryan's decision and outline brief.
05/16/08	JFL	5.75	150	\$862.50	Attention to Affidavit in opposition to cross-motion; conference with John J. Privitera; filed motion papers with Appellate Division; legal research regarding collateral estoppel.
05/19/08	JJP	1.00	300	\$300.00	Telephone calls with Sandy Lewis and Barbara Lewis and research scope of defenses regarding civil case.
05/19/08	JFL	2.50	150	\$375.00	Legal research regarding administrative record in Article 78 proceeding and collateral estoppel; meeting with law clerk regarding same.
05/20/08	JFL	3.75	150	\$562.50	Reviewed legal research regarding collateral estoppel; began drafting Memo of Law in Support of Petition and Motion to Dismiss; attention to Notice of Entry of Third Department's Decision on the Stay.
05/21/08	JJP	1.00	300	\$300.00	Correspondence with Court and telephone calls regarding status and review Court orders.
05/21/08	JFL	0.75	150	\$112.50	Teleconference with Loretta Simon, Esq. regarding Record and return date; letter to Judge Meyer regard Third Department decision.
05/22/08	JFL	2.25	150	\$337.50	Attention to Memorandum of Law in Support of Article 78 Petition and Motion to Dismiss.
05/23/08	JJP	1.50	300	\$450.00	Telephone calls with Sandy Lewis; series of new letters regarding the stay; attention to revised briefing.
05/23/08	JFL	4.00	150	\$600.00	Conferences with John J. Privitera; extended attention to memorandum of law in support of Article 78 proceeding and motion to dismiss.
05/26/08	JFL	1.00	150	\$150.00	Attention to memorandum of law in support of petition and motion to dismiss.
05/27/08	FJS	0.30	250	\$75.00	Conference with J. Lamme re issues about appeal and stay pending appeal
05/27/08	JJP	1.75	300	\$525.00	Review brief points, outline and write portions thereof; further research regarding due process claims; correspondence regarding Adirondack Local Government Review Board; telephone calls with Sandy Lewis regarding farm.

DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
05/27/08	JFL	6.00	150	\$900.00	Extended attention to drafting memorandum of law in support of Article 78 Petition and Motion for Summary Judgment.
05/28/08	JJP	2.00	300	\$600.00	Series of conferences with Sandy Lewis regarding Adirondack Local Government Review Board; draft statement for same; work on brief and housing history issues; write portions of brief.
05/28/08	JFL	7.90	150	\$1,185.00	Extended attention to memorandum of law in support of Article 78 petition and motion to dismiss; legal research regarding individual corporate liability and substantial evidence.
05/29/08	JJP	2.50	300	\$750.00	Conferences with Sandy Lewis regarding Adirondack Local Government Review Board, Amicus brief, and other issues; study Amicus brief and attention to rewrite of portions of Lewis brief.
05/29/08	JFL	2.50	150	\$375.00	Teleconferences with Court Clerk and Loretta Simon, Esq. regarding return date and briefing schedule; attention to Farm Bureau's amicus brief; conference with John J. Privitera.
05/30/08	JJP	2.00	300	\$600.00	Write brief and telephone calls with Sandy Lewis.
05/30/08	JFL	5.75	150	\$862.50	Conference with John J. Privitera; teleconference with client; extended attention to memorandum of law revisions; attention to Judge Meyer's letter and procedural implications.
05/31/08	JJP	3.00	300	\$900.00	Write and revise brief and telephone calls with Sandy Lewis regarding same.
06/02/08	JJP	5.00	300	\$1,500.00	Draft brief and review common issues and themes of briefs with Cynthia Feathers and Sandy Lewis.
06/02/08	JFL	9.50	150	\$1,425.00	Extended attention to finalizing and drafting Memorandum of Law in Support of Petition and Motion to Dismiss, Affirmation and Notice of Motion; teleconferences with client and Judge Meyer's chambers; conferences with John J. Privitera re: strategy.
06/03/08	JHS	2.25	185	\$416.25	Conference with John J. Privitera, Esq.; researched Internal Revenue Code regarding taxation and deductions from agricultural business; draft insert to brief.
06/03/08	JJP	4.50	300	\$1,350.00	Finalize main brief.
06/03/08	JFL	7.50	150	\$1,125.00	Extended attention to finalizing Memorandum of Law; conference call with John J. Privitera and client; conferences with John J. Privitera; served and filed motion with Attorney General, Judge Meyer and Cynthia Feathers, Esq.
06/04/08	JJP	1.25	300	\$375.00	Telephone calls and correspondence with Sandy Lewis regarding brief.
06/04/08	JFL	0.75	150	\$112.50	Teleconferences with client; attention to file management.
06/05/08	JFL	0.50	150	\$75.00	Teleconference with client; attention to file.
06/06/08	JFL	0.25	150	\$37.50	Teleconference with client regarding strategy.
06/10/08	JFL	1.75	150	\$262.50	Teleconference with client; teleconference and e-mails with Judge Meyer's clerk and Loretta Simon, Esq.; attention to e-mails and file regarding consolidation order.
06/11/08	JFL	2.25	150	\$337.50	Attention to Attorney General's opposition papers; several teleconferences with client; conference with John J. Privitera; attention to strategy.
06/12/08	JJP	1.50	300	\$450.00	Review issues with Sandy Lewis; read new cases regarding error of law argument.
06/13/08	JJP	1.50	300	\$450.00	Attention to assistance regarding website development; review correspondence and court orders regarding amicus and scheduling; review status with Sandy Lewis.
06/16/08	JJP	1.75	300	\$525.00	Review Attorney General papers and outline response.
06/16/08	JFL	4.00	150	\$600.00	Extended attention to Agency's motion to dismiss petition; conferences with John J. Privitera; began drafting reply memorandum of law.
06/17/08	JJP	4.50	300	\$1,350.00	Prepare for oral argument; attention to reply memorandum of law.
06/17/08	JFL	8.75	150	\$1,312.50	Extend attention to reply memorandum of law, conferences with John J. Privitera; teleconferences with client and Cynthia Feathers, Esq.
06/18/08	CLRK	2.00	75	\$150.00	Gathering of Cases in Preparation for Argument
06/18/08	JJP	4.75	300	\$1,425.00	Finalize reply brief; review file; organize case law and other materials in preparation for oral argument and travel to Elizabethtown.
06/18/08	JFL	6.75	150	\$1,012.50	Extended attention to finalizing and filing Reply Memorandum and Affirmation; served papers on Loretta Simon and Cynthia Feathers; conferences with John J. Privitera and client; prepared materials for argument.
06/18/08	JFL	0.50	150	\$75.00	Attention to Agency's improper Reply Affirmation.
06/19/08	JJP	11.00	300	\$3,300.00	Prepare for and participate in oral argument of Article 78 petition and motion to dismiss civil matter; travel.
06/19/08	JFL	10.25	150	\$1,537.50	Prepared for, traveled to, and attended hearing in Essex County for argument on Article 78.
06/20/08	JFL	1.00	150	\$150.00	Telephone conference with client; attention to press coverage; attention to file.
06/23/08	JJP	0.50	300	\$150.00	Telephone conference with Sandy Lewis regarding status.
06/30/08	JJP	0.75	300	\$225.00	Telephone conference with Sandy Lewis; telephone conference with Fred Monroe regarding action plan.
07/02/08	JJP	5.00	300	\$1,500.00	Study opinion regarding partial disposition; conference with Farm Bureau; telephone conference with Court regarding same; telephone call with Sandy Lewis and outline strategy and balance of briefing schedule and proceedings with Jacob Lamme.
07/02/08	JFL	3.00	150	\$450.00	Teleconference with Judge Meyer's chambers; attention to Decision; conferences with John J. Privitera, Esq. and client regarding strategy.
07/03/08	JJP	1.50	300	\$450.00	Draft and edit materials for Third Department; conference with Sandy Lewis regarding status and strategy; further review of Court's opinion.
07/03/08	JFL	5.50	150	\$825.00	Attention to Motion to Appellate Division to extend appeal time; served motion and notice of entry.
07/08/08	JFL	1.80	150	\$270.00	Conference with Loretta Simon re: extension proposal; attention to file; e-mails to John J. Privitera and client; teleconferences with client; letter to Loretta Simon.
07/11/08	JFL	4.25	150	\$637.50	Teleconferences with client; drafted Answer; to Amended Summons and Complaint; teleconference with Cynthia Feathers; correspondence from Judge Meyer.
07/14/08	JFL	2.75	150	\$412.50	Reviewed Agency's opposition to Appellate Motion to Extend Time to Appeal; drafted, served and filed Reply Affidavit.
07/15/08	JFL	2.25	150	\$337.50	Attention to Farm's Answer of Enforcement action; e-mail and teleconference with client.
07/23/08	JJP	2.25	300	\$675.00	Draft papers in support of summary judgment and attention to answer.
07/23/08	JFL	4.75	150	\$712.50	Attention to drafting summary judgment memorandum of law; conference with John J. Privitera; teleconference with client.
07/24/08	JJP	1.50	300	\$450.00	Attention to summary judgment brief.
07/24/08	JFL	3.75	150	\$562.50	Attention to summary judgment papers; conference with John J. Privitera regarding strategy.
07/25/08	JJP	2.00	300	\$600.00	Series of telephone calls with Sandy Lewis; draft brief in support of motion for summary judgment; Attention to Third Department's Decision regarding extension; drafted and served Notice of Entry on Loretta Simon, Esq.; attention to summary judgment motion papers.
07/25/08	JFL	3.25	150	\$487.50	Revise answer in counterclaim/enforcement case; outline portion of brief.
07/28/08	JJP	1.25	300	\$375.00	Attention to Summary Judgment papers; completed first draft of Memorandum of Law.
07/28/08	JFL	2.75	150	\$412.50	Teleconferences with client; attention to file.
07/28/08	JFL	0.75	150	\$112.50	

DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
07/29/08	JJP	1.75	300	\$525.00	Draft portions of the Answer and Brief in support of summary judgment.
07/29/08	JFL	1.25	150	\$187.50	Attention to summary judgment motion papers; conference with John J. Privitera.
07/30/08	JJP	5.00	300	\$1,500.00	Draft brief and revise answer.
07/30/08	JFL	7.25	150	\$1,087.50	Extended attention to motion for summary judgment papers; conferences with John J. Privitera; prepared record for exhibit; teleconference with client; drafted John J. Privitera Affidavit; finalized and served answer.
07/31/08	JJP	4.75	300	\$1,425.00	Draft brief in support of summary judgment.
07/31/08	JFL	8.75	150	\$1,312.50	Extended and extensive attention to summary judgment papers; teleconferences with client; conferences with John J. Privitera; reviewed APA's Papers Opposing Article 78 Petition.
08/01/08	JJP	6.50	300	\$1,950.00	Telephone conferences with Sandy Lewis; draft brief.
08/01/08	JFL	7.75	150	\$1,162.50	Extended attention to drafting, revising and finalizing summary judgment papers; conferences with John J. Privitera; teleconferences with client; served motion on Loretta Simon and Cynthia Feathers.
08/03/08	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding appeal, status and strategy.
08/04/08	JFL	2.00	150	\$300.00	Attention to APA's appeal of Judge Meyer's Decision; conference with Francis J. Smith; legal research; teleconferences with client.
08/06/08	JFL	1.50	150	\$225.00	Teleconferences with client re: strategy for opposing APA's motion for leave to appeal; e-mail to Loretta Simon; teleconferences with client re: APA's appeal.
08/07/08	JJP	2.50	300	\$750.00	Draft brief regarding third department; telephone calls with Sandy Lewis and third department regarding scheduling.
08/07/08	JFL	5.25	150	\$787.50	Teleconferences with John J. Privitera and client; drafted opposition to Agency's motion for permission to appeal; conference with John J. Privitera; teleconference with Appellate Division motion office.
08/08/08	JJP	1.50	300	\$450.00	Draft portions of brief and telephone call with Sandy Lewis regarding same.
08/08/08	JFL	1.25	150	\$187.50	Finalized, filed, and served response to Agency's Motion for permission to appeal; teleconference with client.
08/11/08	JFL	1.00	150	\$150.00	Attention to Agency's cross-motion for summary judgment; e-mail to Loretta Simon, Esq.; teleconference with client.
08/12/08	JJP	4.25	300	\$1,275.00	Study government brief and outline responses; series of conferences with Sandy Lewis, Doug Eakley, Esq., and Jacob Lamme regarding status and strategy.
08/12/08	JFL	7.75	150	\$1,162.50	Conference call with client and John J. Privitera; extended attention to Memorandum of Law In Reply to Summary Judgment Motion and Opposing the Agency's Motion.
08/13/08	JJP	3.75	300	\$1,125.00	Draft document in reply and conferences with Sandy Lewis and Cynthia Feathers regarding same.
08/13/08	JFL	4.25	150	\$637.50	Conference with John J. Privitera regarding strategy on opposing Agency's summary judgment motion; attention to drafting Reply Memorandum of Law and Affidavits.
08/14/08	JJP	3.00	300	\$900.00	Draft reply brief.
08/14/08	JFL	6.00	150	\$900.00	Teleconferences with client; attention to drafting and finalizing reply memorandum of law and affirmation.
08/15/08	JJP	1.25	300	\$375.00	Finalize reply memorandum and telephone calls with Sandy Lewis regarding same.
08/15/08	JFL	3.50	150	\$525.00	Attention to finalizing summary judgment opposition and reply papers; conferences with John J. Privitera, Esq.; teleconferences with client.
08/18/08	JJP	1.25	300	\$375.00	Telephone calls and correspondence with Sandy Lewis regarding status and strategy.
08/18/08	JFL	1.50	150	\$225.00	Conference calls with John J. Privitera, Esq. and client; drafted demand letter to Loretta Simon;
08/19/08	JJP	1.50	300	\$450.00	Telephone conferences with Sandy Lewis regarding status and strategy and issues relating to reply brief.
08/19/08	JFL	0.25	150	\$37.50	Teleconference with client; email from client.
08/20/08	JJP	0.75	300	\$225.00	Review final reply papers and telephone call with Sandy Lewis regarding same.
08/21/08	JJP	0.25	300	\$75.00	Telephone calls with Sandy Lewis regarding status and strategy.
08/21/08	JJP	0.75	300	\$225.00	Telephone calls with Sandy Lewis regarding status and strategy.
08/21/08	JFL	2.00	150	\$300.00	Attention to APA's Reply to Cross-Motion; e-mail and conference call with John J. Privitera, Esq. and client.
08/28/08	JJP	0.75	300	\$225.00	Series of telephone calls with Sandy Lewis regarding status and strategy.
08/29/08	JJP	1.00	300	\$300.00	Extended telephone conference with Sandy regarding status and Appellate issues.
09/03/08	JJP	1.50	300	\$450.00	Draft document regarding Ryan appeal and outline Appellate points regarding same.
09/03/08	JFL	2.75	150	\$412.50	Teleconferences and e-mails with client; drafted motion to Appellate Division to extend appeal time of Judge Ryan's Decision.
09/04/08	JFL	3.10	150	\$465.00	Teleconferences with client; attention to record from 498-07 case.
09/05/08	JFL	0.75	150	\$112.50	E-mails, voicemails and teleconference with client re: website content.
09/10/08	FJS	0.40	250	\$100.00	Conference with J. Privitera and J. Lamme re appellate issues; telephone with J. Ranous, Appellate Division motion clerk, re pending appeals.
09/10/08	JFL	1.50	150	\$225.00	Meetings with John J. Privitera and Francis J. Smith re: appellate strategy; e-mail to Loretta Simon; e mail to client.
09/11/08	JFL	1.00	150	\$150.00	Attention to preparation of Record on Appeal for briefing of appeal re: Judge Ryan.
09/12/08	JFL	3.00	150	\$450.00	Compiled record on appeal for Judge Ryan's decision; drafted stipulations and notices for transcript and record and forwarded them to Loretta Simon.
09/15/08	JJP	1.50	300	\$450.00	Telephone call with Sandy Lewis regarding status of appeals and litigation; research and review Ryan appeal issues and AG papers and discuss with Sandy Lewis.
09/15/08	JFL	0.75	150	\$112.50	Teleconferences with client re: website; attention to affidavits.
09/15/08	JFL	1.50	150	\$225.00	Attention to Agency's letter in response to Appellate Motion and reply affidavit; conferences with John J. Privitera re: same.
09/16/08	JJP	0.25	300	\$75.00	Telephone call with Sandy and Barbara Lewis regarding developments on Ryan appeal.
09/16/08	JFL	1.00	150	\$150.00	Teleconferences with client; e-mail new document for website; attention to issues re: appeal of Judge Ryan; conference with John J. Privitera.
09/18/08	JFL	0.25	150	\$37.50	Teleconference with Loretta Simon re: record on appeal and transcript.
09/23/08	JFL	4.50	150	\$675.00	Extended attention to finalizing Record on Appeal for the appeal of Judge Ryan's decision.
09/24/08	JFL	0.75	150	\$112.50	Attention to Record on Appeal; correspondence to Attorney General re: same.
09/25/08	JFL	0.30	150	\$45.00	E-mail correspondence with Loretta Simon re Record on Appeal; teleconference with John J. Privitera re: same.
09/29/08	JFL	1.25	150	\$187.50	Teleconferences with client; served Notice of Entry; teleconference with Loretta Simon; attention to stipulation re: record on appeal and transcript.
10/02/08	JJP	0.50	300	\$150.00	Telephone calls regarding record on appeal and review same; telephone conference with Sandy Lewis regarding status.
10/02/08	JFL	0.75	150	\$112.50	Teleconferences with client; e-mail to Loretta Simon re: transcript.

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10/06/08	JJP	0.25	300	\$75.00	Review correspondence from Sandy Lewis.
10/07/08	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding status.
10/08/08	JJP	0.75	300	\$225.00	Conference with Sandy Lewis regarding status of dispute, record on appeal and transcript.
10/14/08	JJP	0.75	300	\$225.00	Telephone conference with Sandy Lewis and review materials and draft memorandum regarding status and strategy.
10/15/08	JFL	0.25	150	\$37.50	Teleconference with client re: June 19th transcript
10/16/08	JFL	3.25	150	\$487.50	Attention to Record on Appeal of Judge Ryan's Order; teleconferences with client
10/17/08	JFL	1.50	150	\$375.00	Attention to transcript review; teleconference with client; meeting with John J. Privitera; attention to record on appeal
10/28/08	JFL	0.50	150	\$75.00	Telephone conferences with client and Loretta Simon; attention to Conlan article.
10/29/08	JFL	0.25	150	\$37.50	Teleconference with Loretta Simon re: Appellate Division motion.
11/03/08	JFL	1.50	150	\$225.00	Drafted motion to Appellate Division; teleconference and e-mail to client
11/07/08	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding status of Appellate issues and timing of decision.
11/14/08	JJP	0.75	300	\$225.00	Telephone call regarding Ryan decision on appeal in the Third Department, timing and papers in support of extension; review status and strategy with Sandy Lewis.
11/17/08	JJP	0.50	300	\$150.00	Outline response in Third Department regarding extension of time of Ryan appeal.
11/17/08	JJP	0.50	300	\$150.00	Review Third Department matters and briefing schedule.
11/17/08	JFL	2.00	150	\$300.00	Attention to APA's Response to Motion for Extension; drafted and filed Reply Affidavit with Appellate Division.
11/19/08	FJS	0.30	250	\$75.00	Conference with J. Lamme re effect of decision on appeal
11/19/08	JJP	5.25	300	\$1,575.00	Study Judge Meyer decision and review with Sandy Lewis, Barbara Lewis, Cynthia Feathers and Jacob Lamme.
11/19/08	JFL	7.25	150	\$1,087.50	Extended attention to studying Judge Meyer's decision; drafted and served Notice of Entry; teleconferences with client and county treasurer; drafted proposed judgment; researched various appellate issues.
11/20/08	FJS	0.40	250	\$100.00	Conference with J. Lamme re stay and appeal issues; telephone with L. Gallo, Appellate Division motion clerk
11/20/08	JJP	4.50	300	\$1,350.00	Series of press interviews; research regarding stays/right to escrow; telephone calls with Sandy Lewis regarding status and strategy; conference with County Attorney; correspondence with Judge Meyer and County Attorney and research and brief the stay issues.
11/20/08	JFL	8.00	150	\$1,200.00	Extended attention to issues re: County treasurer and appeals; meetings with John J. Privitera; teleconferences with client and Appellate Division.
11/21/08	JJP	5.00	300	\$1,500.00	Attention to correspondence with the Court, final judgment by the Court, release of \$50,000 from escrow and extended conferences with Sandy Lewis regarding same.
11/21/08	JFL	4.00	150	\$600.00	Attention to various issues surrounding judgment and civil penalty release from escrow; teleconferences with Judge Meyer and county officials; meetings with John J. Privitera.
11/24/08	JFL	0.50	150	\$75.00	Teleconferences with client; e-mails, etc.
12/01/08	JJP	1.00	300	\$300.00	Telephone call with Sandy Lewis regarding strategy; review Third Department scheduling order;
12/01/08	JFL	1.50	150	\$225.00	Attention to Appellate Division's decision re: extension for Judge Ryan appeal; drafting and served Notice of Entry; teleconference with client.
12/02/08	JJP	0.25	300	\$75.00	Telephone call with Sandy Lewis and correspondence regarding status.
12/02/08	JFL	1.00	150	\$150.00	Attention to correspondence from Attorney General's office; teleconference with John J. Privitera; attention to reply.
12/03/08	JJP	1.25	300	\$375.00	Research and study equal access to justice issues and review with Jacob Lamme; draft letter in response to Loretta Simon regarding final judgment.
12/03/08	JFL	5.25	150	\$787.50	Legal research re: CPLR Article 86; drafted memo to file and began preparations for motion concerning the same; reviewed and finalized letter to Attorney General.
12/04/08	JJP	0.50	300	\$150.00	Telephone conference with Sandy Lewis regarding status and finalize letter to Loretta Simon.
12/04/08	JFL	0.75	150	\$112.50	Teleconference with client re: recent correspondence with Attorney General; e-mails to client re: same
12/18/08	JJP	0.75	300	\$225.00	Telephone conferences with Sandy Lewis regarding status and Appellate strategy.
12/22/08	JJP	0.75	300	\$225.00	Review Appellate strategy in light of notice of appeal with Sandy Lewis.
12/22/08	JFL	3.00	150	\$450.00	Teleconference with Appellate Division Clerk's Office; attention to drafting motion consolidation papers
12/23/08	JJP	2.50	300	\$750.00	Draft motion in Third Department regarding consolidation and advanced briefing schedule; conferences with Sandy and Barbara regarding status and strategy; and series of conferences with Sandy Lewis regarding same.
12/23/08	JFL	4.25	150	\$637.50	Attention to drafting motion consolidation papers; finalized and served appellate motion papers
12/24/08	JFL	0.50	150	\$75.00	Attention to e-mails with client and providing motion to client
12/29/08	JJP	0.75	300	\$225.00	Conference with Sandy Lewis and Farm Bureau regarding Appellate strategy.
12/30/08	JJP	1.25	300	\$375.00	Series of conferences with Sandy Lewis regarding Appellate timing and submissions; conference with Sandy Lewis and Farm Bureau representatives regarding support.
12/31/08	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding Appellate strategy.
01/05/09	JJP	1.00	300	\$300.00	Draft papers regarding consolidation of appeals in the Third Department; conference with Sandy Lewis relating thereto.
01/05/09	JFL	5.75	150	\$862.50	Teleconferences with client (extended conference call); attention to APA's opposition to consolidation motion; drafted Reply Affidavit and served and filed same with Third Department
01/06/09	JJP	0.75	300	\$225.00	Telephone call with Sandy Lewis regarding Farm Bureau and alliances and Amicus Brief
01/06/09	JFL	1.00	150	\$150.00	Teleconference and e-mail with client; corrected reply affidavit; drafted letter to Appellate Division
01/08/09	JJP	1.00	300	\$300.00	Conference with Barbara Lewis regarding status and strategy; conferences with Sandy Lewis regarding same.
01/09/09	JJP	1.50	300	\$450.00	Attention to surreply in the Third Department; conferences and other Appellate issues; conference with Sandy Lewis.
01/09/09	JFL	0.50	150	\$75.00	Attention to AG's Sur-Reply; e-mail and teleconference with John J. Privitera re: same.
01/15/09	JFL	0.25	150	\$37.50	Teleconferences with client and John J. Privitera re APA's contact at LFF's engineer
01/16/09	JJP	1.00	300	\$300.00	Conferences with Sandy Lewis regarding appeal; conference with Doug Ferris regarding contact from Doug Miller of the APA regarding stay application.
01/16/09	JFL	0.50	150	\$75.00	Attention to Appellate Division's Order; coordinate reproduction of appellate record in Action No. 1 to provide to Attorney General



DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
01/20/09	JJP	1.00	300	\$300.00	Correspondence with Cynthia Feathers regarding Farm Bureau executive strategy; conference with Sandy Lewis regarding executive strategy and appellate strategy.
01/21/09	JJP	0.50	300	\$150.00	Conference with Sandy Lewis; conference with Cynthia Feathers regarding Appellate strategy.
01/26/09	JJP	0.75	300	\$225.00	Conference with Sandy Lewis regarding Appellate strategy.
01/27/09	JJP	0.50	300	\$150.00	Telephone conference with Farm Bureau regarding appellate strategy.
02/02/09	JJP	0.50	300	\$150.00	Review issues and law regarding motion for a stay/injunction in the Third Department.
02/02/09	JFL	0.25	150	\$37.50	Attention to Record on Appeal; teleconference with Loretta Simon re: same
02/03/09	JJP	0.75	300	\$225.00	Attention to issues regarding motion for stay or injunction; draft portions of brief regarding constitutional impact; telephone conference with Sandy Lewis regarding same.
02/03/09	JFL	2.25	150	\$337.50	Teleconferences and e-mails with client re: APA's motion for a stay; teleconference and e-mail with Douglas Ferris, P.E.
02/04/09	JJP	2.50	300	\$750.00	Draft opposition to motion for stay/injunction.
02/05/09	JJP	3.25	300	\$975.00	Draft Brief in opposition to motion for injunction.
02/05/09	JFL	1.75	150	\$262.50	Teleconferences with client re: motion for stay; research re: motion response time; teleconference with Loretta Simon re: APA's defective notice of motion; conference with John J. Privitera re: strategy
02/05/09	JFL	2.25	150	\$337.50	Legal research re: procedural aspects of APA's motion for a stay; conference with John J. Privitera re: strategy for opposition
02/06/09	JJP	2.25	300	\$675.00	Draft brief in opposition to motion for injunction.
02/06/09	JFL	4.50	150	\$675.00	Legal research re: Agency's Motion for a stay; attention to formulating and drafting LFF's response; conferences with John J. Privitera, Esq.; teleconferences with client.
02/10/09	JJP	1.75	300	\$525.00	Draft portions of brief in opposition to motion for injunction.
02/11/09	JFL	2.50	150	\$375.00	Attention to rules concerning compilation of record in Appellate Division; began comparing AG's proposed Table of Contents to actual filings in the three cases.
02/12/09	JJP	3.25	300	\$975.00	Draft portions of brief in opposition to motion for injunction.
02/12/09	JFL	6.75	150	\$1,012.50	Extended attention to drafting response to APA's motion for a stay; teleconferences with Loretta Simon; attention to verifying and revising APA's proposed Table of Contents for the Record on Appeal.
02/13/09	FJS	0.30	250	\$75.00	Conference with John J. Privitera and J. Lamme re motion for preliminary injunction pending appeal
02/13/09	JJP	4.00	300	\$1,200.00	Draft brief in opposition to motion for injunction.
02/13/09	JFL	6.50	150	\$975.00	Teleconference with Loretta Simon re: finalization of Table of Contents for Record on Appeal; attention to drafting stay opposition papers
02/14/09	JJP	3.00	300	\$900.00	Draft portions of brief in opposition to motion for stay.
02/14/09	JFL	4.50	150	\$675.00	Attention to drafting Memorandum of Law in Opposition to Agency's Motion for Injunction
02/15/09	JJP	1.75	300	\$525.00	Draft brief in opposition to motion for injunction.
02/16/09	JJP	2.25	300	\$675.00	Draft brief in opposition to motion for injunction.
02/17/09	JJP	1.75	300	\$525.00	Finalize brief in opposition to motion for injunction.
02/17/09	JFL	4.25	150	\$637.50	Attention to drafting, revising and finalizing papers in opposition to injunction; filed and served the same
02/18/09	JFL	1.75	150	\$262.50	Teleconferences with client and Loretta Simon re: Record on Appeal; e-mail to client; letter to Simon
02/19/09	JFL	2.75	150	\$412.50	Teleconferences with client; attention to reviewing Agency's proposed Record on Appeal; reviewed Farm Bureau's Amicus Motion; drafted letter to Loretta Simon, Esq.
02/23/09	JJP	0.50	300	\$150.00	Review reply regarding motion for injunction in Third Department; draft letter to the Court
02/23/09	JFL	1.75	150	\$262.50	Reviewed Agency's reply papers in support of the Motion for an Injunction; teleconferences and e-mails with client re: same
02/23/09	JFL	0.50	150	\$75.00	Legal research in preparation for appeal
02/27/09	JFL	0.50	175	\$87.50	E-mail to client re: AG's response to amicus motion; meeting with John J. Privitera re: appellate strategy
03/02/09	JJP	1.00	300	\$300.00	Study government brief and preliminary outline of response.
03/02/09	JFL	3.75	175	\$656.25	E-mail to Loretta Simon; attention to Agency's Appellate papers; teleconferences with client; meeting with John J. Privitera; letter to Julie Sheridan
03/03/09	JJP	0.50	300	\$150.00	Further review of government brief and discuss same with Sandy Lewis.
03/03/09	JFL	8.00	175	\$1,400.00	Extended attention to studying Appellant's Brief and Record on Appeal; conferences with John J. Privitera and client; attention to outlining and beginning to draft Respondent's Brief
03/04/09	JJP	0.50	300	\$150.00	Series of conferences with Sandy Lewis regarding briefing.
03/04/09	JFL	7.00	175	\$1,225.00	Teleconferences with client; extended attention to drafting respondent's Brief on Appeal
03/05/09	JJP	0.75	300	\$225.00	Draft portions of response brief.
03/05/09	JFL	4.00	175	\$700.00	Teleconference with client re: comments on Appellant's Brief; continued drafting Respondent's brief.
03/06/09	JJP	1.00	300	\$300.00	Draft outline to brief.
03/06/09	JFL	2.00	175	\$350.00	Meeting with John J. Privitera; attention to Respondent's Brief; drafted letter to Appellate Division re: Respondent's Brief page limit extension
03/09/09	JJP	0.50	300	\$150.00	Telephone conferences with Sandy Lewis regarding status, strategy amicus brief and overall argument.
03/09/09	JFL	0.25	175	\$43.75	E-mails and teleconference re: Court's ruling on amicus motion
03/10/09	JFL	3.00	175	\$525.00	E-mail and teleconferences with client re: APA meeting status and Court's ruling on Amicus Motion; attention to issues re: Record on Appeal; travel to Camelot to retrieve Record
03/11/09	JJP	0.50	300	\$150.00	Telephone calls with Sandy Lewis regarding government brief.
03/11/09	JFL	0.50	175	\$87.50	Teleconference with client; attention to issues re: Record on Appeal
03/16/09	JFL	0.25	175	\$43.75	Attention to issues re: the appeal.
03/18/09	JJP	2.00	300	\$600.00	Attention to Brief.
03/18/09	JFL	0.50	175	\$87.50	Telephone conference with client; email to client; attention to issues re: appeal.
03/19/09	JFL	1.00	175	\$175.00	Telephone conference with Cynthia Feathers, Esq. re: Appellate Brief strategy; Attention to issues re: brief and appeal.
03/20/09	JJP	2.00	300	\$600.00	Revise Brief.
03/20/09	JFL	7.75	175	\$1,356.25	Extended attention to Respondent's Brief on Appeal; Telephone conference with client & conference with John J. Privitera re: same.
03/21/09	JJP	2.00	300	\$600.00	Revise brief.
03/21/09	JFL	1.75	175	\$306.25	Attention to revising & drafting Respondent's Brief on Appeal; email draft of same to John J. Privitera.
03/23/09	JJP	2.00	300	\$600.00	Draft brief.

DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
03/23/09	JFL	5.75	175	\$1,006.25	Telephone conferences with client & Cynthia Feathers, Esq.; extended attention to drafting and revising Respondents' Appellate Brief.
03/24/09	JJP	5.00	300	\$1,500.00	Draft brief.
03/24/09	JFL	2.50	175	\$437.50	Meetings with John J. Privitera; letter to Appellate Division; Attention to Respondents' Brief on Appeal.
03/25/09	JJP	3.00	300	\$900.00	Draft brief.
03/25/09	JFL	7.50	175	\$1,312.50	Meetings with John J. Privitera; extended attention to drafting and revising Respondents' Brief on Appeal.
03/26/09	JHS	1.00	185	\$185.00	Conference with John J. Privitera, Esq.; revise brief point regarding Internal Revenue Code.
03/26/09	JJP	2.00	300	\$600.00	Draft brief.
03/26/09	JFL	4.75	175	\$831.25	Teleconference with client; e-mail with Cynthia Feathers, Esq.; attention to drafting and revising Respondents' Brief on Appeal.
03/27/09	JFL	7.50	175	\$1,312.50	Extended attention to drafting and revising Respondents' Brief on Appeal.
03/28/09	JJP	2.00	300	\$600.00	Finish brief.
03/29/09	JFL	5.50	175	\$962.50	Revised Respondents' Brief pursuant to John J. Privitera's changes; cite checked case law in Brief.
03/30/09	FJS	0.80	250	\$200.00	Review respondents' brief; conference with J. Lamme re same.
03/30/09	JFL	7.00	175	\$1,225.00	Extended attention to revising Respondents' Brief on Appeal; teleconferences with John J. Privitera, Cynthia Feathers and client.
03/31/09	JFL	3.25	175	\$568.75	Revised and finalized Respondents' Brief on Appeal; teleconferences with client.
04/01/09	MPB	0.90	175	\$157.50	Proofread Appellate Brief.
04/01/09	JFL	3.50	175	\$612.50	Teleconferences with client; finalized and served respondents' Brief on Appeal.
04/06/09	JFL	1.00	175	\$175.00	Reviewed Farm Bureau's Amicus Brief; attention to issues on appeal; teleconference with client.
04/10/09	JJP	0.50	300	\$150.00	Meet with Jacob Lamme regarding status and strategy on briefing.
04/10/09	JFL	0.25	175	\$43.75	Meeting with John J. Privitera re: appeal.
04/13/09	JJP	1.75	300	\$525.00	Study constitutional issues for reply papers.
04/15/09	JFL	0.25	175	\$43.75	Attention to Appellate Division's schedule; teleconference with client.
04/16/09	JJP	1.50	300	\$450.00	Extended conference with Sandy Lewis regarding status and strategy; review constitutional issues for final reply brief.
04/16/09	JFL	0.75	175	\$131.25	E-mails to client and Farm Bureau; teleconferences with client and Cynthia Feathers.
04/17/09	JJP	0.75	300	\$225.00	Study Amicus Brief from Farm Bureau and markup same.
04/21/09	JFL	0.50	175	\$87.50	Attention to preparations re: reply brief; conference with John J. Privitera.
04/23/09	JFL	0.50	175	\$87.50	Teleconference with client re: strategy on Reply Brief.
04/24/09	JFL	0.25	175	\$43.75	Attention to caselaw under the EAJA.
04/27/09	JFL	0.50	175	\$87.50	Teleconference and attention to e-mail of client.
04/28/09	JFL	6.10	175	\$1,067.50	Teleconferences with client; attention to legal research and drafting Reply Brief; teleconferences with John J. Privitera.
04/29/09	JJP	1.50	300	\$450.00	Draft portions of brief and conferences with Sandy Lewis regarding same.
04/29/09	JFL	4.00	175	\$700.00	Teleconferences with client; attention to drafting Reply Brief and studying APA's Reply Brief.
04/30/09	JJP	2.00	300	\$600.00	Draft portions of brief and conference with Sandy Lewis regarding same.
04/30/09	JFL	1.75	175	\$306.25	Teleconferences with client; attention to drafting reply brief.
05/01/09	JFL	0.50	175	\$87.50	Teleconferences with client; attention to case summary review.
05/03/09	JFL	1.75	175	\$306.25	Attention to reply brief.
05/04/09	JJP	1.50	300	\$450.00	Redraft portions of brief; conference with Sandy Lewis regarding same.
05/04/09	JFL	4.50	175	\$787.50	Attention to research and drafting Reply Brief; teleconference with client.
05/05/09	JJP	3.00	300	\$900.00	Draft and redraft substantial portions of Third Department Brief; deliver to Sandy Lewis and review with him.
05/05/09	JFL	5.50	175	\$962.50	Conferences with John J. Privitera; attention to drafting and revising Reply Brief.
05/06/09	JJP	1.75	300	\$525.00	Revise Brief and telephone call with Sandy Lewis regarding same.
05/06/09	JFL	2.50	175	\$437.50	Attention to e-mail correspondence; conference with John J. Privitera; revisions to brief; teleconferences with client.
05/07/09	JJP	1.50	300	\$450.00	Draft reply brief and conferences with Sandy Lewis regarding same.
05/07/09	JFL	2.25	175	\$393.75	Reviewed administrative record; reviewed and revised Reply Brief; attention to e-mails and teleconferences from client.
05/08/09	JJP	2.25	300	\$675.00	Finalize and edit reply brief; conferences with Sandy Lewis regarding same.
05/08/09	JFL	4.75	175	\$831.25	Attention to reviewing, revising and finalizing Reply Brief; filing and service of same; teleconferences and e-mail with client.
05/11/09	JFL	0.25	175	\$43.75	Attention to e-mail correspondence; teleconference with Court re: calendar.
05/12/09	JFL	0.25	175	\$43.75	Reviewed letter from Appellate Division; e-mailed same to client.
05/15/09	JJP	0.75	300	\$225.00	Telephone call with Sandy Lewis and prepare for oral argument.
05/17/09	JFL	1.75	175	\$306.25	Prepared Argument notebook.
05/18/09	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding oral argument strategy.
05/18/09	JFL	0.75	175	\$131.25	Teleconferences with client and court; attention to e-mail.
05/20/09	JJP	1.00	300	\$300.00	Conference with Sandy Lewis regarding status and strategy.
05/22/09	JJP	1.00	300	\$300.00	Draft portions of oral argument.
05/24/09	JJP	2.00	300	\$600.00	Prepare for oral argument.
05/26/09	JJP	3.50	300	\$1,050.00	Prepare for oral argument.
05/26/09	JFL	4.25	175	\$743.75	Extended attention to oral argument preparation with John J. Privitera.
05/27/09	JJP	7.50	300	\$2,250.00	Prepare for and participate in oral argument.
05/27/09	JFL	6.50	175	\$1,137.50	Extended attention to preparation for appellate argument; attended argument.
05/29/09	JJP	0.50	300	\$150.00	Correspondence with Sandy Lewis and review issues regarding misstatements by government at oral argument.
06/12/09	JJP	1.75	300	\$525.00	Telephone conference with Sandy Lewis regarding oral argument.
06/12/09	JFL	0.80	175	\$140.00	Teleconferences and e-mails with client re: appeal issues.
06/13/09	JJP	0.50	300	\$150.00	Telephone call with Sandy Lewis regarding status and strategy.
07/13/09	JJP	0.50	300	\$150.00	Study case developments and review issues with Sandy Lewis.
07/16/09	JJP	4.00	300	\$1,200.00	Study opinion and conferences with Sandy Lewis and Barbara Lewis regarding implications of decision; telephone conferences with Amicus Counsel, Farm Bureau; respond to inquiries and review Appellate issues with Farm Bureau counsel.
07/16/09	JFL	2.00	175	\$350.00	Reviewed Appellate Division's Decision; conferences with John J. Privitera and client re: strategy; e-mails re: same.
07/16/09	CLRK	3.50	75	\$262.50	Researching and drafting memo regarding CPLR 8600 counsel fees.
07/17/09	JFL	0.50	175	\$87.50	Attention to e-mails and reports re: Appellate Decision.

DATE	TIMEKEEPER	HOURS	BILLABLE RATE	FEES BILLED	DESCRIPTION
07/17/09	CLRK	4.00	75	\$300.00	Researching and drafting memo regarding EAJA fees.
07/18/09	CLRK	5.00	75	\$375.00	Researching and drafting memo regarding EAJA counsel fees.
07/20/09	CLRK	4.00	75	\$300.00	Researching and drafting memo regarding CPLR 8601 counsel fees.
07/20/09	JJP	1.00	300	\$300.00	Review New York Law under CPLR and conference with Sandy Lewis regarding appeal rights and right to attorney's fees under New York Law.
07/20/09	JJP	1.50	300	\$450.00	Provide advice to Lewis Farm regarding farmhouse construction, APA appeal rights and right to counsel fees.
07/20/09	JFL	1.50	175	\$262.50	Teleconferences with client and conference with John J. Privitera re: strategy on EAJA motion
07/22/09	JJP	0.75	300	\$225.00	Conferences with Sandy Lewis and Jake Lamme regarding appeal rights and right to counsel fees
07/22/09	JFL	0.30	175	\$52.50	Conferences with John Privitera regarding appeal and right to counsel fees
07/24/09	JJP	1.25	300	\$375.00	Conferences with Sandy Lewis regarding right to farm, right to attorney's fees and New York law regarding the same
07/27/09	JFL	0.25	175	\$43.75	Attention to Article 86 of the CPLR; e-mail to client regarding the same
08/04/09	JFL	1.50	175	\$262.50	Attention to strategy and legal research for EAJA motion; conferences with John J. Privitera
08/04/09	JJP	0.50	300	\$150.00	Review counsel fee statute and cases; attention to application for fees
08/05/09	JFL	3.75	175	\$656.25	Attention to drafting brief and affidavit for EAJA motion
08/05/09	JJP	2.00	300	\$600.00	Research scope of counsel fees application; attention to portions of brief and affidavits
08/06/09	JFL	4.75	175	\$831.25	Legal research regarding EAJA under federal and New York law; conferences with John J. Privitera and client; continued drafting motion papers
08/07/09	JFL	7.50	175	\$1,312.50	Extended attention to legal research and drafting motion papers for EAJA motion
08/07/09	JJP	1.75	300	\$525.00	Draft portions of brief in support of motion for counsel fees; research scope of claim and defenses
08/09/09	JFL	2.25	175	\$393.75	Revised motion papers for EAJA motion
08/10/09	JFL	7.50	175	\$1,312.50	Extended attention to drafting motion papers for EAJA motion
08/10/09	JJP	2.50	300	\$750.00	Review and markup final affidavits and brief in support of EAJA motion
			<b>TOTAL FEES:</b>	<b>\$203,192.50</b>	
<b>Expenses:</b>					
03/26/08				\$14.00	Constructive Copy, LLC; Copy Charges
03/27/08				\$12.24	Vendor Federal Express; Federal Express
03/27/08				\$0.26	Long Distance Telephone
03/27/08				\$0.42	Long Distance Telephone
04/01/08				\$7.20	Copy Charges
04/01/08				\$118.00	Lisa L. Tennyson; Transcript pf 3/13/08 hearing
04/07/08				\$108.15	Copy Charges
04/07/08				\$210.00	Essex County Clerk; Index Number
04/07/08				\$45.00	Essex County Clerk; Motion fee - Order to Show Cause
04/07/08				\$95.00	Essex County Clerk; Request For Judicial Intervention
04/08/08				\$0.11	Long Distance Telephone
04/09/08				\$199.24	Jacob F. Lamme; Travel - mileage & meal
04/11/08				\$9.15	Copy Charges
04/11/08				\$19.95	Copy Charges
04/11/08				\$375.00	Cardmember Services - aerial photos
04/11/08				\$150.00	Miscellaneous - Storage Retrieval - emergency basis
04/14/08				\$45.00	Essex County Clerk; Filing Fees
04/14/08				\$45.00	Essex County Clerk; Filing Fees
04/14/08				\$95.00	Essex County Clerk; Request For Judicial Intervention
04/15/08				\$7.60	Essex County Clerk; Copy Charges
04/16/08				\$2.85	Long Distance Telephone
04/16/08				\$0.22	Long Distance Telephone
04/17/08				\$129.28	John J. Privitera; Travel to Elizabethtown on 4/10/08
04/22/08				\$54.60	Copy Charges
04/22/08				\$2.70	Copy Charges
04/23/08				\$0.17	Long Distance Telephone
04/23/08				\$0.24	Long Distance Telephone
04/23/08				\$0.39	Long Distance Telephone
04/24/08				\$9.70	Vendor Federal Express; Federal Express
04/24/08				\$9.70	Vendor Federal Express; Federal Express
04/24/08				\$9.70	Vendor Federal Express; Federal Express
04/24/08				\$9.70	Vendor Federal Express; Federal Express
04/24/08				\$2.12	Long Distance Telephone
04/24/08				\$0.19	Long Distance Telephone
04/28/08				\$45.00	State of New York; Motion fee in 3rd Dept
04/30/08				\$0.97	Long Distance Telephone
04/30/08				\$0.84	Long Distance Telephone
04/30/08				\$6.04	Jacob F. Lamme; Travel & parking
05/01/08				\$9.70	Vendor Federal Express; Federal Express
05/01/08				\$9.70	Vendor Federal Express; Federal Express
05/05/08				\$1.35	Copy Charges
05/05/08				\$1.35	Copy Charges
05/07/08				\$0.24	Long Distance Telephone
05/08/08				\$45.00	State of New York; Motion fee
05/08/08				\$1.84	Long Distance Telephone
05/09/08				\$0.15	Long Distance Telephone
05/13/08				\$218.60	Ellen D. Chase; Expedited transcript of Court Appearance on 4/11/08
05/16/08				\$0.18	Long Distance Telephone
05/28/08				\$0.52	Long Distance Telephone
05/28/08				\$0.12	Long Distance Telephone
05/30/08				\$0.14	Long Distance Telephone
05/31/08				\$32.34	Vendor Lexis-Nexis; Lexis-Nexis
06/03/08				\$94.80	Copy Charges
06/03/08				\$45.00	Essex County Clerk; Motion fee
06/04/08				\$0.87	Long Distance Telephone

<b>Expenses:</b>					
06/12/08				\$0.11	Long Distance Telephone
06/12/08				\$1.12	Long Distance Telephone
06/12/08				\$0.39	Long Distance Telephone
06/16/08				\$0.40	Long Distance Telephone
06/16/08				\$0.87	Long Distance Telephone
06/18/08				\$48.30	Copy Charges
06/18/08				\$80.00	DVD duplication
06/19/08				\$0.14	Long Distance Telephone
06/19/08				\$126.25	James Girvin; Travel
06/19/08				\$133.83	Jacob F. Lamme; Travel
06/20/08				\$1.28	Long Distance Telephone
06/20/08				\$0.31	Long Distance Telephone
06/20/08				\$0.14	Long Distance Telephone
06/24/08				\$1.29	Long Distance Telephone
06/25/08				\$260.04	John J. Privitera; Travel to Elizabeth town 6/18-19/08, mileage (129.28), meals (25.55) and hotel (105
06/30/08				\$193.68	Lexis-Nexis
06/30/08				\$40.32	Lexis-Nexis
07/02/08				\$18.00	Copy Charges
07/02/08				\$2.00	Long Distance Telephone
07/03/08				\$57.00	Copy Charges
07/03/08				\$45.00	State of New York; Witness Fee - 3rd dept
07/09/08				\$0.89	Long Distance Telephone
07/10/08				\$0.43	Long Distance Telephone
07/11/08				\$125.00	National Corporate Research, LTD; Certified Copies
07/11/08				\$1.72	Long Distance Telephone
07/16/08				\$0.25	Long Distance Telephone
07/16/08				\$0.24	Long Distance Telephone
07/18/08				\$0.83	Long Distance Telephone
07/22/08				\$0.11	Long Distance Telephone
07/25/08				\$0.77	Long Distance Telephone
07/25/08				\$0.54	Long Distance Telephone
07/29/08				\$0.28	Long Distance Telephone
07/30/08				\$27.60	Copy Charges
07/30/08				\$33.00	Copy Charges
07/30/08				\$20.70	Copy Charges
07/30/08				\$9.90	Copy Charges
07/31/08				\$99.03	Lexis-Nexis; Online Research
07/31/08				\$248.19	Kinko's copy expense
07/31/08				\$0.56	Long Distance Telephone
08/01/08				\$45.00	Essex County Clerk; Motion fee
08/05/08				\$0.97	Long Distance Telephone
08/05/08				\$0.83	Long Distance Telephone
08/11/08				\$0.14	Long Distance Telephone
08/11/08				\$0.47	Long Distance Telephone
08/13/08				\$0.43	Long Distance Telephone
08/15/08				\$1.33	Long Distance Telephone
08/15/08				\$1.50	Long Distance Telephone
08/15/08				\$1.65	Long Distance Telephone
08/19/08				\$1.96	Long Distance Telephone
08/22/08				\$1.37	Long Distance Telephone
08/29/08				\$1.14	Long Distance Telephone
09/03/08				\$45.00	State of New York; Motion fee
09/04/08				\$0.38	Long Distance Telephone
09/08/08				\$0.52	Long Distance Telephone
09/08/08				\$0.18	Long Distance Telephone
09/08/08				\$0.34	Long Distance Telephone
09/09/08				\$2.94	Long Distance Telephone
09/09/08				\$0.49	Long Distance Telephone
09/12/08				\$1.04	Long Distance Telephone
09/12/08				\$0.12	Long Distance Telephone
09/22/08				\$0.14	Long Distance Telephone
09/28/08				\$4.80	Postage
09/29/08				\$0.85	Long Distance Telephone
10/02/08				\$2.56	Long Distance Telephone
10/07/08				\$0.55	Long Distance Telephone
10/13/08				\$0.28	Long Distance Telephone
10/20/08				\$387.22	Camelot Legal Copy; Copy Charges
10/20/08				\$1.30	Long Distance Telephone
10/22/08				\$0.83	Long Distance Telephone
10/31/08				\$1.23	Long Distance Telephone
10/31/08				\$0.55	Long Distance Telephone
11/03/08				\$45.00	State of New York; Motion fee
11/06/08				\$0.15	Long Distance Telephone
11/10/08				\$0.58	Long Distance Telephone
11/10/08				\$0.29	Long Distance Telephone
11/20/08				\$2.78	Long Distance Telephone
11/24/08				\$0.83	Long Distance Telephone
11/30/08				\$10.38	Vendor Federal Express; Federal Express
12/01/08				\$6.75	Copy Charges
12/16/08				\$0.36	Long Distance Telephone
12/23/08				\$25.20	Copy Charges
12/23/08				\$6.60	Copy Charges
12/23/08				\$45.00	State of New York; Motion fee
12/30/08				\$5.06	Postage
12/30/08				\$1.27	Long Distance Telephone
12/30/08				\$2.93	Long Distance Telephone

<b>Expenses:</b>					
12/31/08				\$4.36	Long Distance Telephone
01/21/09				\$152.40	Copy Charges
01/22/09				\$171.45	Copy Charges
02/02/09				\$33.13	OK Copy Valet; Copy Charges
02/03/09				\$1.22	Long Distance Telephone
02/17/09				\$63.60	Copy Charges
03/12/09				\$404.24	Camelot Legal Copy; Copy Charges
03/18/09				\$11.40	Vendor Federal Express; Federal Express
03/18/09				\$11.40	Vendor Federal Express; Federal Express
03/24/09				\$0.25	Long Distance Telephone
04/01/09				\$171.00	Copy Charges
04/02/09				\$0.16	Long Distance Telephone
04/20/09				\$0.55	Long Distance Telephone
05/06/09				\$0.43	Long Distance Telephone
05/06/09				\$0.61	Long Distance Telephone
05/11/09				\$0.10	Long Distance Telephone
05/19/09				\$0.52	Long Distance Telephone
05/29/09				\$0.81	Long Distance Telephone
06/18/09				\$5.50	Sanjeev Devabhakthuni; Travel on 6/10
Expense Total				\$5,577.56	
	<b>Grand Total</b>			<b>\$208,770.06</b>	