

**STATE OF VERMONT
ENVIRONMENTAL COURT**

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

Docket No.

v.

SISTERS AND BROTHERS
INVESTMENT GROUP, LLP,
Respondent

I. VIOLATION

Construction of improvements to a road in a rare and irreplaceable natural area on the permitted tract, without a permit amendment, in violation of Land Use Permit #4C0927-R, as amended, and in violation of Act 250 Rule 34(A).

II. ADMINISTRATIVE ORDER

Having found that Sisters and Brothers Investment Group, LLP, (Respondent) committed violations as defined in 10 V.S.A. § 8002(9), the Environmental Court, pursuant to the authority set forth in 10 V.S.A. §§ 8008 and 8012, hereby issues the following Administrative Order:

III. STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Land Use Permit #4C0927-R (the Permit) was issued to Leisure Real Estate Enterprise Corp. on March 24, 1993, to authorize a restaurant, golf course and other improvements on a 92-acre tract of land at the Marble Island Resort in Colchester, Vermont.
2. Condition 20 of the Permit provides that:

No further subdivision and/or development of any parcel of land approved herein shall be permitted without the written approval of the District Commission.
3. In 2002, Leisure Real Estate Enterprise Corp. subdivided and conveyed approximately 26.05 acres of the 92-acre project tract to Respondent. The entire project tract, including the 26.05-acre parcel, is subject to the Permit.
4. In the late spring or early summer of 2007, Respondent constructed improvements to an existing unpaved road on the 26.05-acre parcel.

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5. The Permit does not authorize said construction.
6. The improvements were constructed in an environmentally sensitive rare and irreplaceable natural area and had the potential for significant impacts under various Act 250 criteria, including Criterion 8, aesthetics and rare and irreplaceable natural areas.
7. To date, Respondent has not filed a permit amendment application for said construction of improvements.
8. The failure to obtain an Act 250 permit amendment prior to commencing the road improvements violates the Permit and Act 250 Rule 34(A).

ORDER

- A. The Respondent shall pay a civil penalty in the amount of **Nine Thousand Dollars U.S. (9,000.00)** for the violations noted herein. Respondent shall make said payment by check made payable to the "Treasurer, State of Vermont" and shall be forwarded to:

Denise Wheeler, Business Manager
Natural Resources Board, Land Use Panel
National Life Records Center Building
National Life Drive
Montpelier, Vermont 05620-3201

This penalty does not include the costs incurred for enforcement or the amount of economic benefit gained by Respondent from the violations. The Panel reserves the right to augment this penalty through evidence presented at hearing. In accordance with 10 V.S.A. § 8010, the penalty may be increased by the costs incurred for the enforcement of the described violations, the amount of economic benefit gained by Respondent from the violations, the need for deterrence, and any and all other penalty factors enumerated in 10 V.S.A. § 8010(b), each according to proof at the hearing.

- B. No later than thirty (30) days after the date on which this Order becomes a final judicial order, the Respondent shall submit a complete Act 250 permit amendment application to the District 4 Environmental Commission, seeking authorization for the road improvements in question and any other changes Respondent plans to make to the 26.05-acre lot, including the natural restoration plan required in the June 10, 2008 Stipulation and Order in *Town of Colchester v. Sisters and Brothers Investment Group, LLP*, Docket Nos. 116-8-07, 239-11-07 and 233-10-07 Vtec.

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- C. If the Respondent fails to file a permit amendment application in accordance with the preceding paragraph, or files a complete and timely application and the Commission denies said application and said denial becomes final, Respondent shall restore the 26.05-acre lot in accordance with the natural restoration plan required in the June 10, 2008 Stipulation and Order in *Town of Colchester v. Sisters and Brothers Investment Group, LLP*, Docket Nos. 116-8-07, 239-11-07 and 233-10-07 Vtec. Respondent shall have ninety (90) days from said final denial to file a certification with the District 4 Environmental Commission that the site has been restored in compliance with this Order.
- D. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.

**RESPONDENT'S RIGHT TO A HEARING
IN ENVIRONMENTAL COURT**

Respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. § 8012 by filing a Notice of Request for Hearing within **fifteen (15) days** of the date that Respondent receives this Administrative Order. Respondent must file, within the time limit, a Notice of Request for Hearing with both the Land Use Panel and the Environmental Court at the following addresses:

Melanie Kehne, Associate General Counsel
Natural Resources Board, Land Use Panel
National Life Records Center, National Life Drive
Montpelier, VT 05620-3201

Ms. Jacalyn Fletcher, Court Manager
Vermont Environmental Court
2418 Airport Road, Suite 1
Barre, VT 05641-8701

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

This Administrative Order shall become effective on the date it is received by Respondent unless the Respondent files a Notice of Request for Hearing within **fifteen (15) days** of receipt as provided in the preceding section. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by

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the Environmental Court. If the Respondent does not timely file a Notice of Request for a Hearing, this Administrative Order shall become a Judicial Order when filed with and signed by the Environmental Court.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondent fails or refuses to comply with the conditions of a final Administrative Order, the Land Use Panel shall have cause to initiate an enforcement action against the Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

DATED in Montpelier, Vermont, this 22nd day of September, 2008.

LAND USE PANEL

By:

Peter F. Young, Jr., Chair

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