

_____)
LAND USE PANEL of the)
NATURAL RESOURCES BOARD,)
 Petitioner)
)
 v.)
)
JEFF BLOW,)
VERMONT SHIFTER KARTS, LLC)
 Respondents)
 _____)

ASSURANCE OF DISCONTINUANCE

VIOLATION

- I. Commencement of development without an Act 250 Land Use Permit. 10 V.S.A. §6081(a).

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Jeff Blow and Vermont Shifter Karts, LLC (collectively Respondents) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. Respondent Jeff Blow owns an approximately 64-acre parcel of land off of the Pirie Road in Williamstown, Vermont, described in Book 87, Page 155 of the Town of Williamstown land records (project tract).
2. Respondent Jeff Blow operates a “go-cart” race track on the project tract associated with his go-cart racing club, Vermont Shifter Karts, LLC. Respondent Jeff Blow is also the registered agent for Vermont Shifter Karts, LLC.
3. During the spring of 2006, Respondents commenced construction of the paved go-cart race track and accessory structures, including bleachers and a flag stand, on the project tract. Respondents also improved a 1,700 foot long gravel access road on the project tract at that time.
4. Respondents failed to apply for or obtain an Act 250 Land Use Permit prior to the construction of those improvements.

5. On March 1, 2007, Respondent Jeff Blow submitted an application for an Act 250 Land Use Permit.
6. On March 22, 2007, District Coordinator, Ed Stanak, for the District 5 Environmental Commission (Commission) issued a Jurisdictional Opinion in the form of a Project Review Sheet finding that Act 250 jurisdiction attached to the project tract.
7. That Jurisdictional Opinion was not appealed.
8. On February 13, 2009, the Commission issued Land Use Permit #5R1478 to Respondents which, in part, specifically authorized "as-built" approval of the go-cart track and the accessory structures.
9. Respondents violated 10 V.S.A. § 6081(a) by commencing development without first obtaining an Act 250 Land Use Permit.

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violation, the parties hereby agree as follows:

- A. Respondents shall abide by Land Use Permit #5R1478 and all of its conditions.
- B. Respondents shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of Three Thousand Two Hundred Dollars U.S. (\$3,200.00) for the violation noted herein, which shall be paid in four separate payments of Eight Hundred Dollars (\$800.00) as follows:
 - Respondents' first payment shall be received by July 24, 2009.
 - Respondents' second payment shall be received by October 1, 2009.
 - Respondents' third payment shall be received by January 1, 2010.
 - Respondents' final payment shall be received by April 1, 2010.

Respondents shall make said payment by check made payable to the "Treasurer, State of Vermont" and shall be forwarded to:

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

Late payments shall bear interest at the rate of twelve percent (12%) per annum. In the event that Respondents fail to make any payment by the date due, the Land Use Panel, at its option, may declare the whole amount then owing under this Assurance due and payable, any terms herein to the contrary notwithstanding.

- C. Any payment by the Respondents pursuant to this Assurance is made to resolve the violation set forth herein and shall not be considered to be a charitable contribution, business expense, or other deductible expense under the federal or state tax codes. Respondents shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondents' state or federal taxes.
- 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 violation set forth herein above.
- E. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondents' continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondents.
- F. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- G. Pursuant to 10 V.S.A. § 8007(d), the Respondents shall not be liable for any additional civil or criminal penalties with respect to the specific facts described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that the Respondents fully comply with the agreements set forth above.
- H. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.
- I. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.
- J. This Assurance is subject to the provisions of 10 V.S.A. § 8007.
- K. This Assurance or a notice thereof may be filed within the land records of the town(s)

in which the property is located.

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Barre, Vermont, this 21st day of July, 2009.

Jeff Blow
JEFF BLOW, Individually

and

VERMONT SHIFTER KARTS, LLC

By: Jeff Blow
JEFF BLOW, Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Washington, ss.

BE IT REMEMBERED that on the 21st day of July, 2009, personally appeared JEFF BLOW, individually and as the duly authorized agent of VERMONT SHIFTER KARTS, LLC, signer of the foregoing instrument who is known to me or who satisfactorily established his identity to me and acknowledged the same to be his free act and deed and the free act and deed of VERMONT SHIFTER KARTS, LLC and that he has the authority to contract on behalf of VERMONT SHIFTER KARTS, LLC and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

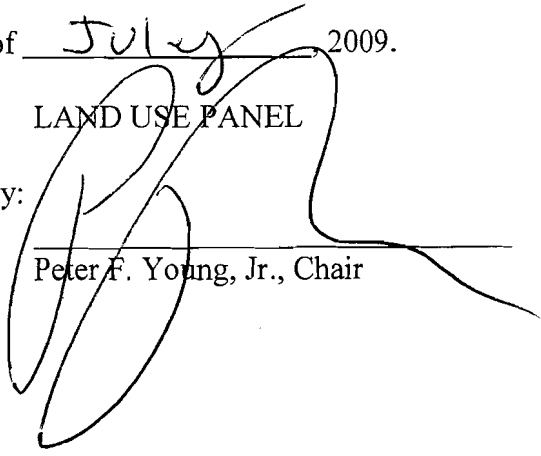
Before me,
William R. Adams
Notary Public
My Commission Expires: 2/10/2011

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 22nd day of July 2009.

LAND USE PANEL

By:


Peter F. Young, Jr., Chair