

STATE OF VERMONT
SUPERIOR COURT, ENVIRONMENTAL DIVISION

Land Use Panel of the
Natural Resources Board,
Petitioner,
v.
Jason Clough and
Lisa Bergeron,
Respondents

Docket No. 97-5-09 Vtec

ASSURANCE OF DISCONTINUANCE

VIOLATION

Failure to comply with permit condition 6 of Land Use Permit #2W0858

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Jason Clough and Lisa Bergeron (Respondents) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. On February 5, 1991, the District 2 Environmental Commission issued Land Use Permit #2W0858 (Permit) to Eastland, Inc. and other co-permittees, for a project located in the Town of Grafton, Vermont. The Permit authorizes "the permittees to create an eight-lot subdivision to be used for seasonal camping, outdoor recreation and forestry management...."

2. Condition 6 of the Permit states:

6. The lots in this subdivision are approved for use as seasonal camps utilizing recreational vehicles, tents, or primitive lean-tos. The construction of housing is prohibited.

3. Respondents own a lot in the subdivision subject to the Permit.

4. The Panel contends that the Respondents constructed a structure on their lot in violation of Condition 6 of the Permit.

5. Respondents have since applied for and received an Act 250 Land Use Permit amendment which brings their construction into compliance.

AGREEMENT

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

- A. Respondents shall comply with Land Use Permit #2W0858, as amended.
- B. Respondents shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of Two Thousand Five Hundred (\$2500.00) Dollars (U.S.); for the violations noted herein.

This penalty shall be paid in accordance with the following schedule:

On or before February 1, 2012	\$625.00
On or before May 1, 2012	\$625.00
On or before August 1, 2012	\$625.00
On or before November 1, 2012	\$625.00

Failure to make a payment in accordance with this schedule shall cause the entire amount of the penalty to become immediately due and owing.

Late payments are subject to an annual interest rate of 12%.

Payment shall be by check made payable to the "Treasurer, State of Vermont," which shall be sent 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

- C. No later than 30 days following the entry of this Assurance as an Order by the Superior Court, Environmental Division, the Respondents shall pay the amount of Ten (\$10.00) Dollars (U.S.), for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Grafton land records, by good check made payable to the "Town of Grafton, Vermont .".
- D. Any payment by the Respondents pursuant to this Assurance is made to resolve the violations set forth in this Assurance 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,

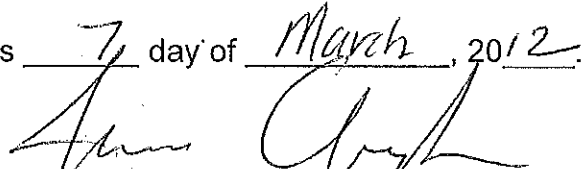
any payments, penalties, contributions or other expenditures required by this Assurance from Respondents state or federal taxes.

- E. 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.
- F. 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.
- G. 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.
- H. Pursuant to 10 V.S.A. § 8007(d), the Respondents shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein, provided that the Respondents fully comply with the agreements set forth above.
- I. 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.
- J. 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.
- K. This Assurance is subject to the provisions of 10 V.S.A. § 8007.
- L. The Administrative Order issued in this case is dismissed.

SIGNATURES

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

Dated at _____, _____, this 7 day of March, 2012.



Jason Clough

STATE OF RI
COUNTY OF Washington, ss.

BE IT REMEMBERED that on the 7 day of March, 2012,
personally appeared Jason Clough, 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.

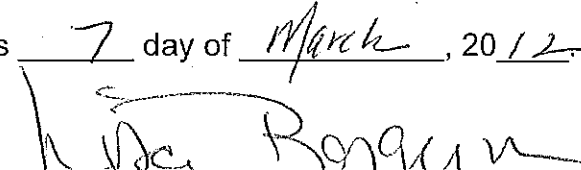
Before me,


Notary Public
My Commission Expires: 7/11/15

MICHELLE A. HERRIN
NOTARY PUBLIC
MY COMMISSION EXPIRES 7/11/15

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

Dated at _____, _____, this 7 day of March, 2012.



Lisa Bergeron

STATE OF VT
COUNTY OF Washington, ss.

BE IT REMEMBERED that on the 7 day of March, 20 12,
personally appeared Lisa Bergeron, signer of the foregoing instrument who is known to
me or who satisfactorily established her identity to me and acknowledged the same to
be her free act and deed.

Before me
Michelle A. Herrin, Notary Public
Notary Public
My Commission Expires: 7/11/15

MICHELLE A. HERRIN
NOTARY PUBLIC
MY COMMISSION EXPIRES 7/11/15

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

Dated in Montpelier, Vermont, this 9th day of March, 20 12.

LAND USE PANEL

By: Ronald A. Shems
Ronald A. Shems, Esq.
Chair