

STATE OF VERMONT  
ENVIRONMENTAL COURT

FILED

DEC 7 2007

VERMONT  
ENVIRONMENTAL COURT

Vermont Natural Resources Board, )  
Land Use Panel )  
Petitioner, )  
)  
v. )  
)  
Stanley Cole, )  
Respondent. )

Docket # 264-12-07 Vtec

**ORDER**

The Assurance of Discontinuance signed by the Respondent on November 30, 2007, and filed with the Environmental Court on December 5, 2007, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 7th day of December 2007.

A handwritten signature in cursive script, reading "Merideth Wright", written over a horizontal line.

Merideth Wright,  
Environmental Judge

STATE OF VERMONT

ENVIRONMENTAL COURT  
Docket No.

**LAND USE PANEL of the  
NATURAL RESOURCES BOARD,**  
Petitioner,

**ASSURANCE OF DISCONTINUANCE**

v.

**STANLEY COLE,**  
Respondent.

**VIOLATIONS**

- I. Commencing construction of a residential subdivision prior to obtaining the required land use permit amendment in violation of 10 V.S.A., Ch 151 (Act 250) and Condition 3 of Land Use Permit (LUP) #7C0475.

**ASSURANCE OF DISCONTINUANCE**

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

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS**

1. On October 6, 1980, the District 7 Environmental Commission (Commission) issued LUP #7C0475 to Drs. Robert Jauch and Ronald Spaulding, authorizing the construction of a 32 foot by 108 foot medical office building on Breezy Hill Road in the Town of St. Johnsbury, Vermont and identified in Book 94, Page 436 of the St. Johnsbury land records.
2. Condition 3 of LUP #7C0475 states: "Subdivision of the tract of land or construction of further improvements shall require amendment of this permit."
3. On June 17, 1987, the Commission issued the amended LUP #7C0475-1 to Dr. Robert & Patricia Jauch and Dr. Ronald Spaulding, authorizing the creation of a 1-lot subdivision and the division of the existing medical office into 2 condominium areas on Breezy Hill Road in the Town of St. Johnsbury, Vermont and identified in Book 169, Pages 76-78 and Book 173, Page 331 of the St. Johnsbury land records.
4. Condition 5 of LUP #7C0475-1 states: "Except as expressly amended herein all

terms and conditions of Land Use Permit #7C0475 issued on October 6, 1980 remain in full force and effect.”

5. Respondent purchased the property in question in December 2005.
6. Respondent’s attorney provided a Report and Opinion on Title to the Respondent, applicable from November 5, 1951 to November 28, 2005, which stated: “There is nothing in the land records to indicate that these premises have been used in such a way to require an Act 250 Permit.”
7. Respondent began logging the property in the Spring of 2006 and constructed landings and accesses from April through November of 2006.
8. During 2006, Respondent developed plans for a 6 lot subdivision of the property in question.
9. In the Fall of 2006, Respondent constructed gravel access driveways on the property to serve one or more of the proposed residential lots.
10. On March 21, 2007, District 7 Coordinator, Kirsten Sultan issued a project review sheet for the Respondent’s property in question, finding that the proposed subdivision constituted a material change to Land Use Permit #7C0475.
11. On July 20, 2007, Coordinator Sultan conducted a site visit at Respondent’s property and observed recent tree clearing and residential driveway construction.
12. Coordinator Sultan issued a Notice of Alleged Violation on August 3, 2007 for commencing construction of a residential subdivision prior to obtaining the required land use permit amendment.
13. Respondent violated 10 V.S.A., Ch 151 and Condition 3 of LUP #7C0475 by commencing the construction of improvements without a permit amendment.

### AGREEMENT

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

- A. Within thirty (30) days of the date on which this Assurance is signed by the Environmental Court, the Respondent shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of One Thousand Dollars (\$1,000) (U.S.), 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  
Land Use Panel of the Natural Resources Board  
National Life Records Center Building  
National Life Drive  
Montpelier, Vermont 05620-3201

- B. Any payment by the Respondent 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 or business expense under the federal or state tax codes.
- C. Respondent shall submit a complete Act 250 land use permit amendment application for the subdivision in question on or before January 15, 2008. If the Respondent fails to file such application, or files a complete application and the Commission denies said application, the Respondent shall restore the property in question to its condition prior to the commencement of any improvements for the planned subdivision. Such restoration shall be completed within one hundred eighty (180) days of the permit denial or failure to apply for a permit amendment.
- 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.
- E. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.
- 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 Respondent 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 Respondent fully complies 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.

**SIGNATURES**

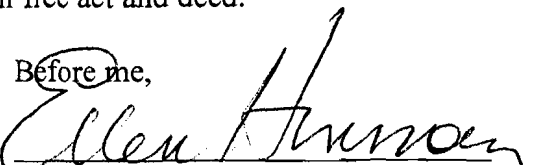
The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at ST. JOHNSBURY, Vermont, this 30th day of NOVEMBER, 2007.

  
 \_\_\_\_\_  
 STANLEY COLE

STATE OF VERMONT  
COUNTY OF CALEDWELL, ss.

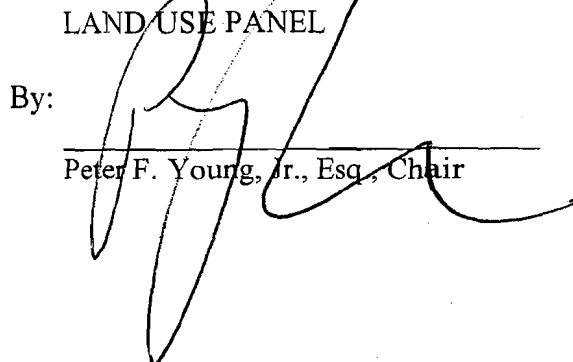
BE IT REMEMBERED that on the 30th day of NOVEMBER, 2007 personally appeared Stanley G. Cole, signer(s) of the foregoing instrument who is/are known to me or who satisfactorily established his/her/their identity to me and acknowledged the same to be his/her/their free act and deed.

Before me,  
  
 \_\_\_\_\_  
 Notary Public  
 My Commission Expires: 2/16/2011

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

Dated in Montpelier, Vermont, this 3rd day of December, 2007.

LAND USE PANEL  
 By:   
 \_\_\_\_\_  
 Peter F. Young, Jr., Esq., Chair