

STATE OF VERMONT

ENVIRONMENTAL COURT

Docket No. _____

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

Petitioner

v.

**ASSURANCE OF
DISCONTINUANCE**

94 – 100 HOOD STREET EXTENSION, LLC

Respondent

VIOLATION

- I. Construction of single-family homes without first obtaining the written approval of the District Commission or a written determination from the District Coordinator that a permit is not required, in violation of Condition #30 of Land Use Permit #4C1199.

ASSURANCE OF DISCONTINUANCE

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

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. Respondent owns 1.27 acres located on Hood Street in Winooski, Vermont, identified in book 182, pages 476, of the land records (the Project Tract).
2. The Project Tract is subject to Land Use Permit #4C1199 (the Permit).
3. Condition #30 of the Permit states:

The permit does not authorize the construction of single family homes on Lots 1-4 of the approved subdivision by the Permittee. No further subdivision, alteration, and/or development of any parcel of land approved herein shall be permitted without written approval of the District Commission or a written determination from the District Coordinator that a permit is not required.

4. On or about March 1, 2009, Respondent constructed single family homes on the Project Tract, without written approval of the District Commission or a written determination from the District Coordinator that a permit is not required.

5. Said construction violated Condition #30 of the Permit.
6. On or about March 27, 2009, Respondent obtained Land Use Permit Amendment #4C1199-1 authorizing said construction and requiring the filing of a Certificate of Actual Construction Costs.

AGREEMENT

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

- A. No later than thirty (30) days following the entry of this Assurance as an Order 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 **Three Thousand Seven Hundred and Eighty Dollars (\$3,780.00)** (U.S.), for the violation 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 paragraph is made to resolve the violation set forth in this Assurance and shall not be considered a business expense or a charitable contribution under federal or state tax codes. Respondent shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondent's state or federal taxes.
- C. 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.
- D. 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.
- E. 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.


- F. 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 herein.
- G. 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.
- H. 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.
- I. 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 S. Baul, Vermont, this 24 day of May, 2009.

94-100 Hood Street Extension, LLC

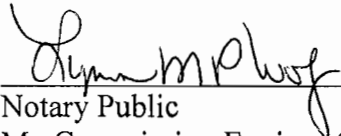
By: 
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Chittenden, ss.

BE IT REMEMBERED that on the 24th day of May, 2009, personally appeared Jeff Myers, individually and as the duly authorized agent of 94-100 Hood Street Extension, LLC, signer and scaler 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 94-100 Hood Street Extension, LLC and that he has the authority to contract on behalf of Hood Street

Extension, LLC and that he is authorized to enter into the foregoing Assurance on behalf of that entity..

Before me,



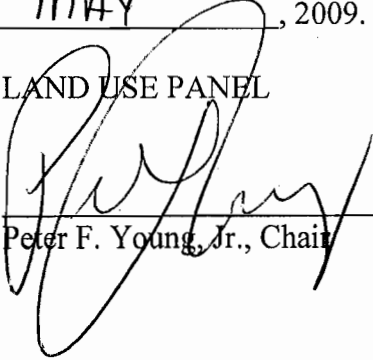
Notary Public
My Commission Expires: 2/10/2011

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

Dated in Montpelier, Vermont, this 27th day of MAY, 2009.

LAND USE PANEL

By:



Peter F. Young, Jr., Chair