

STATE OF VERMONT
ENVIRONMENTAL COURT

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner,

Docket No.

v.

ROBERT LIMOGGIO,
Respondent

ADMINISTRATIVE ORDER

I. VIOLATION

Construction of an unauthorized addition on the auto repair garage subject to Land Use Permit #2W0607, and unauthorized long-term storage of vehicles in front of said auto repair garage, without a land use permit amendment, in violation of Land Use Permit #2W0607 and Act 250 Rule 34(A).

II. ADMINISTRATIVE ORDER

Having found that Robert Limoggio (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. Respondent owns and operates an auto repair garage at 874 Route 100, in Wilmington, Vermont (the Project), on land identified in a deed recorded at Book 88, Page 346 of the Wilmington land records.
2. The Project is subject to Land Use Permit #2W0607 (the Permit). Condition 1 of the Permit provides that:

The project shall be completed as set forth in the Findings of Fact and Conclusions of Law #2W0607, in accordance with the plans and exhibits stamped "Approved" and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.

3. At some time before September 6, 2007, an unpermitted addition was constructed onto the garage.

4. Respondent purchased the Project tract subject to the Permit.
5. Respondent has stored vehicles in front of the garage for periods of time longer than three months. The Permit, through Condition 1 and exhibits incorporated therein, authorizes storage of vehicles in this location for no longer than three months.
6. The vehicle storage and new addition described herein violate the Permit and constitute material changes to the permitted development.
7. Respondent violated the Permit and Act 250 Rule 34(A) by failing to obtain a permit amendment for these changes.

ORDER

- A. Within thirty (30) days of the date upon which this Order becomes final, Respondent shall submit a complete Act 250 permit amendment application to the District 2 Environmental Commission, seeking authorization for the long-term vehicle storage, the building addition in question, and any other changes Respondent plans to make to the 164-acre lot. Respondent shall diligently pursue this application and shall comply with all requests for information from the District 2 Environmental Commission and its staff.
- B. If the Respondent fails to file a permit amendment application in compliance with the preceding paragraph, or files a complete and timely application and the Commission denies said application and said denial becomes final, Respondent shall remove the vehicles and the addition and restore the Project to its permitted condition. Said restoration shall be completed within two hundred and ten (210) days after this Order becomes final if Respondent does not file an application in accordance with Paragraph A, above, or within one hundred eighty (180) days of the date on which any decision denying the permit amendment application referenced herein becomes final.
- C. Respondent shall pay a penalty of **\$6,225.00** within thirty (30) days of receipt of this Order. Payment shall be by check made payable to the "Treasurer, State of Vermont" and sent to:

Denise Wheeler, Business Manager
Natural Resources Board, Land Use Panel
National Life Records Center, 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.

**RESPONDENT'S RIGHT TO A HEARING
BEFORE THE 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 M. 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 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 18th day of August, 2009.

LAND USE PANEL

By: 

Peter F. Young, Jr., Chair