

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No.

Land Use Panel of the
Natural Resources Board,
Petitioner,

ASSURANCE OF DISCONTINUANCE

v.

Rodney Williams, Jr. and Tollgate Village, Inc.
Respondents.

VIOLATION

Commencement of development or commencement on a development without a 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 Rodney Williams, Jr. and Toll Gate, Village, inc., (Respondents) hereby enter into this Assurance of Discontinuance (Assurance) , and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent Rodney Williams, Jr is the President and a Director of Toll Gate Village, Inc. Respondent Williams owned or controlled, at all relevant times, a 2.57 acre parcel of land in Dover, Vermont (the project tract).
2. The Town of Dover does not have both permanent subdivision and zoning regulations.
3. In May 1984, the District 2 Environmental Commission issued Land Use Permit #2W0575 to the Village at Sawmill Farm, Inc. The Village at Sawmill Farm, Inc thereafter conveyed a portion of the lands subject to Land Use Permit #2W0575 (a 1.82 acre parcel) to the Inn at Sawmill Farm, Inc.
4. The 1.82 acre parcel owned by Inn at Sawmill Farm, Inc. is subject to Land Use Permit series #2W0575.

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5. On January 3, 1988, Land Use Permit #2W0575-3 was issued to the Inn at Sawmill Farm, Inc., authorizing the conversion of the farmhouse at the Inn for use as four guestrooms.
6. Land Use Permit series #2W0575 has been amended several times, most recently in September 2006.
7. On September 5, 1991, Rodney Williams, Sr. conveyed a .75 acre parcel to Respondent Williams. The Inn at Sawmill Farm, Inc, leased the 1.82 acre parcel to Respondent Williams. These two parcels are contiguous. Total 2.57 acres, and constitute the "project tract."
8. Rodney Williams, Sr. and Respondent Williams are or were, at all relevant times, officers and directors of the Inn at Sawmill Farm, Inc.
9. In 1991 and 1992, Respondent Williams relocated an historic structure, known as the Pike-Stanley House, to the center of the project tract from its historic location along Route 100. Respondent Williams made structural and architectural changes to the Pike-Stanley House for mixed residential/commercial use. Respondent Williams also converted an existing garage to commercial office/shop space; and constructed two small commercial buildings. All of the activities described in this paragraph are hereinafter referred to as "the Project."
10. At the time of the relocation of and alterations to the Pike-Stanley House, the project tract was subject to Act 250 jurisdiction.
11. The Pike-Stanley House was built c. 1850. It was listed on the State Register of Historic Structures Places on February 24, 1987 and constitutes a "historic site" for purposes of Act 250. The Pike-Stanley House is located within the West Dover Village Historic District which was listed on the National Register of Historic Places on November 24, 1985.
12. The 1991 structural and architectural changes to the Pike-Stanley House include bumping out the right half of the front elevation, extending the roofline over the bump out; installing two large picture windows on the front elevation, replacing historic windows throughout the rest of the building, removing Gothic Revival bargeboards from the eaves, and removing slotted porch posts on the

wing. These alterations resulted in an undue adverse effect to the Pike-Stanley House.

13. On December 23, 1992, after the commencement and completion of the changes to the Pike-Stanley House, Respondent Williams conveyed the .75 acre parcel to Respondent Toll Gate Village, Inc., On June 30, 2010, the Inn at Sawmill Farm, Inc. conveyed the 1.82 acre parcel to Toll Gate Village, Inc. Toll Gate Village, Inc. now owns the entire 2.57 acre project tract.
14. On July 30, 2010, District 2 Coordinator April Hansel issued a Jurisdictional Opinion to Respondent Williams. The Jurisdictional Opinion concluded that the Project has required an Act 250 permit since 1991. This Jurisdictional Opinion was not appealed and is therefore final.
15. The Project is subject to Act 250 jurisdiction.
16. Respondents commenced development without a Land Use Permit in violation of 10 V.S.A. §6081(a).
17. On August 26, 2010 Respondents filed an application for a Land Use Permit for the 1991 -1992 changes to the Project.

AGREEMENT

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

- A. Respondents shall diligently pursue the application for the Land Use Permit filed on August 26, 2010.
- B. "Diligently pursue" shall mean that Respondent shall (a) respond to any and all requests for information from the Commission, or the Coordinator for the Commission, or other state or local agency by the date set by the Commission, or the Coordinator, or the agency; and (b) comply with all scheduling or other orders or memoranda issued by the Commission or other state or local agency. Respondent shall not be responsible for delays outside its control, including

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those caused or directed by the Commission or state or local agency or by any other parties to its application.

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 following:

1, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **One Thousand Eight Hundred Seventy-Five (\$1875.00) Dollars (U.S.)**, for the violations noted herein, by good check made payable to the "Treasurer, State of Vermont".

2. pursuant to 10 V.S.A. §8007(b)(2), the amount of **Five Thousand Six Hundred Twenty-Five (\$5625.00) Dollars (U.S.)**, by good check made payable to **The Preservation Trust of Vermont** in order to fund a Supplemental Environmental Project (SEP) which will enhance the historic resources of the area affected by the violations. The SEP is described in Exhibit A to this Assurance.

3. 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 Town of Dover land records, by good check made payable to the "Town of Dover, Vermont."

All payments pursuant to this paragraph 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

D. 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, business expense, or other deductible expense under the federal or state tax codes. See Internal Revenue Code §162(f); Treasury Regulation §1.162-21. 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.

E. In the event that any Respondent publishes by any means, directly or indirectly, the identity or result of any SEP which any Respondent has contributed to, such Respondent shall also include in that publication a statement that the SEP is a

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product of the settlement of an environmental enforcement action brought by the Land Use Panel of the Natural Resource Board.

- F. 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.
- G. 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.
- H. 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, this Assurance shall be null and void.
- I. Pursuant to 10 V.S.A. §8007(d), the Respondent shall not be liable to the Land Use Panel for 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.
- J. 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.
- K. Any violation of any agreement set forth herein will be deemed 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.
- L. This Assurance is subject to the provisions of 10 V.S.A. §8007.

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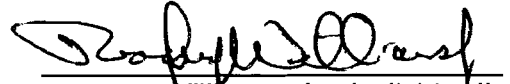
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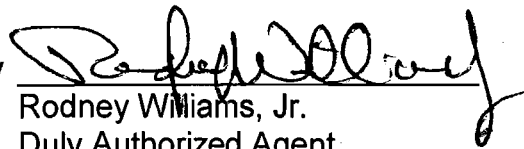
SIGNATURES

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

Dated at West Dover, Vermont, this 11th day of October, 2010.


Rodney Williams, Jr., Individually


TOLLGATE VILLAGE, INC.

By 
Rodney Williams, Jr.
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF WINDHAM, ss.

BE IT REMEMBERED that on the 11th day of October, 2010, personally appeared Rodney Williams, Jr., individually and as the duly authorized agent of Tollgate Village, Inc., signer and sealer 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 Tollgate Village, Inc. and that he has the authority to contract on behalf of Tollgate Village, Inc. and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,


Notary Public
My Commission Expires: 2-10-11

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

Dated in Montpelier, Vermont, this 19th day of October, 2010.

LAND USE PANEL

By: 

Peter F. Young, Jr., Chair



EXHIBIT A

The Pike-Stanley House, the subject of the AOD, was listed on the State Register of Historic Structures Places on February 24, 1987 and constitutes a "historic site" for purposes of Act 250. It is also located within the West Dover Village Historic District which was listed on the National Register of Historic Places on November 24, 1985.

The National Register Nomination Forms for the West Dover Historic District were completed in 1985 and have not been updated since that time. The Preservation Trust of Vermont will use the funds provided by this SEP Agreement to have a 36 CFR Part 61 qualified professional complete an update to the 1985 National Register Nomination Forms for the West Dover Historic District. Said update shall be prepared in accordance with all applicable laws, regulations, and National Park Service Guidance.

All work funded with the SEP funds shall meet Division for Historic Preservation standards. The completed Nomination Forms, archival photographs, maps and supporting documentation will be provided to the Division for Historic Preservation in electronic format and in hard copy and will be complete in form and substance to allow for the National Park Service's review and consideration for entry in the National Register. The qualified professional will present the results of the project at a public meeting.

The Recipient may retain up to 10% of the SEP funds to cover any administrative costs incurred as a result of administering this Project. If an RFP process does not result in a proposal that accomplishes the project described above, the SEP funds may be used for an alternative historic preservation project to be proposed by the Division for Historic Preservation and approved by the Land Use Panel.

