

STATE OF VERMONT

ENVIRONMENTAL COURT

Docket No. \_\_\_\_\_

\_\_\_\_\_  
LAND USE PANEL of the  
NATURAL RESOURCES BOARD )

Petitioner )

v. )

WILLIAM MCMICHAEL )

Respondent )

ASSURANCE OF DISCONTINUANCE

**VIOLATION**

- I. Construction of improvements to a residence above 2,500 feet without approval from the District 2 Environmental Commission in violation of Condition No. 2 of Land Use Permit #2W1127-EB.

**ASSURANCE OF DISCONTINUANCE**

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

**STATEMENT OF FACTS AND VIOLATION**

- 1. Respondent owns a home located on Rice Hill Road, in Dover, Vermont, described in Book 267, Pages 117 & 118 of the Town of Dover land records (the Project). The house is at an elevation above 2,500 feet.
- 2. Said Project is subject to Land Use Permit #2W1127-EB, issued May 14, 2004.
- 3. Condition No. 2 of Land Use Permit #2W1127-EB prohibits changes in the design or use of the project without written approval of the District Coordinator or the District Environmental Commission.
- 4. During the fall of 2007 Respondent commenced renovations to the project without first obtaining written approval from the District Commissioner. The original permit does not authorize those renovations.
- 5. Respondent has since obtained Land Use Permit #2W1127-1 authorizing the renovations to the house.
- 6. Respondent violated Condition No. 2 of Land Use Permit #2W1127-EB by

commencing construction without a Land Use Permit Amendment or other written approval from the District Coordinator or District Environmental Commission.

**AGREEMENT**

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

- A. No later than 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 Three Thousand One Hundred and Twenty-Five Dollars (\$3,125.00), for the violation noted herein. Respondent shall make said payment by check or money order payable to the "Treasurer, State of Vermont" and shall send it to:

Denise Wheeler, Business Manager  
Natural Resources Board, Land Use Panel  
National Life Records Center Building  
National Life Drive  
Montpelier, Vermont 05620-3201

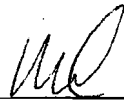
Any payment by the Respondent pursuant to this paragraph is made to resolve the violation set forth in this Assurance of Discontinuance and shall not be considered to be a charitable contribution or business expense under the federal or state tax codes.

- B. Respondent shall comply with all terms and conditions of Land Use Permit #2W1127-1, as amended.
- C. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violation 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.
- 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), Respondent shall not be liable 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.
- 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.

  
\_\_\_\_\_  
William McMichael

STATE OF VERMONT  
COUNTY OF \_\_\_\_\_, ss.

BE IT REMEMBERED that on the \_\_\_\_\_ day of \_\_\_\_\_, 2008,  
personally appeared \_\_\_\_\_, 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: \_\_\_\_\_

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**Assurance of Discontinuance**  
**Land Use Panel v. William McMichael,**  
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 14<sup>th</sup> day of July, 2008.

LAND USE PANEL

By: 

Peter F. Young, Jr., Chair