

STATE OF VERMONT

ENVIRONMENTAL COURT

Docket No. _____

LAND USE PANEL of the
NATURAL RESOURCES BOARD,

Petitioner

v.

PAULA & PASQUALE
PATORTI,

Respondents

ASSURANCE OF DISCONTINUANCE

VIOLATION

- I. Commencement of development without an Act 250 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 Paula and Pasquale Patorti (Respondents) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. Respondents own an approximately 1.05 acre tract of land located at 196 Mussey Street in Rutland, Vermont. (the project tract) This tract is described in Book 438, Pages 366-369 of the City of Rutland land records.
2. In 2009, Respondents commenced construction of a 12 unit residential Alzheimer's care facility.
3. Respondents failed to apply for or obtain an Act 250 Land Use Permit before commencing construction of the 12 unit residential care facility.
4. Respondents ceased construction in early November 2009 upon realizing their project required an Act 250 Land Use Permit and immediately self reported their violation to the District Coordinator for the District 1 Environmental Commission (Commission).
5. Respondents submitted an Act 250 Land Use Permit application to the Commission on November 23, 2009.

6. On December 11, 2009, the Commission issued Land Use Permit #1R0963 to the Respondents specifically authorizing the construction of a 12 unit residential housing facility on the project tract.
7. Respondents violated 10 V.S.A. §6081 by commencing development without first obtaining an Act 250 Land Use Permit.

AGREEMENT

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

- A. Within thirty days (30) of the date on which this Assurance is signed by the Environmental Court, Respondents shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of One Thousand Five Hundred Dollars (U.S.) (\$1,500.00) for the violation noted herein. Respondents 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 Respondents pursuant to this Assurance is made to resolve the violation set forth herein and shall not be considered to be a charitable contribution, business expense, or other deductible expense under the federal or state tax codes. Respondents shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondents' state or federal taxes.
- C. The Panel shall file a notice of this Assurance in the land records of the municipality where this project is located after this Assurance is signed by the Environmental Court. The Respondents shall be responsible for the payment of the recording fee for such notice and shall send to the Panel a check in the amount of Ten Dollars (\$10.00), made payable to said municipality.
- 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 violation set forth herein above.
- E. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondents' continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondents.

- 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 Respondents 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 Respondents fully comply 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 RUTLAND, Vermont, this 9th day of February, 2010.


PAULA PATORTI

STATE OF VERMONT
COUNTY OF RUTLAND, ss.

BE IT REMEMBERED that on the 9th day of February, 2010, personally appeared PAULA PATORTI, signer of the foregoing instrument who is known to me or who satisfactorily established her identity to me and acknowledged the same to be her free act and deed.

Before me,

Brenda Baron
Notary Public
My Commission Expires: 2-10-11

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

Dated at RUTLAND, Vermont, this 9th day of February, 2010.

Pasquale Patorti
PASQUALE PATORTI

STATE OF VERMONT
COUNTY OF RUTLAND, ss.

BE IT REMEMBERED that on the 9th day of February, 2010,
personally appeared PASQUALE PATORTI, signer 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.

Before me,

Brenda Baron
Notary Public
My Commission Expires: 2-10-11

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

Dated in Montpelier, Vermont, this 12TH day of February, 2010.

LAND-USE PANEL

By: Pitoyou

Peter F. Young, Jr., Chair