

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

NRB v. HRH Management, LLC

21-ENV-00067

ORDER

The Assurance of Discontinuance, signed by the Respondent(s) on the 14th day of May, 2021 and filed with the Superior Court, Environmental Division, on the 16th day of July, 2021, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Electronically Signed: 7/20/2021 10:13 AM pursuant to V.R.E.F. 9(d).

A handwritten signature in black ink that reads "Tom Walsh" with a stylized flourish at the end.

Thomas G. Walsh, Judge
Superior Court, Environmental Division

STATE OF VERMONT

Superior Court

**Environmental Division
Docket No.**

**Natural Resources Board,
Petitioner**

ASSURANCE OF DISCONTINUANCE

v.

**HRH Management, LLC,
Respondent**

VIOLATIONS

1. Violation of Land Use Permit 8B0603-3 Conditions 1, 2, and 19 – Failure to install the required dry hydrant pursuant to Exhibit # 028e and Exhibit #028b by October 1, 2018.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board (“Board”) and HRH Management, LLC (“Respondent”) hereby enter into this Assurance of Discontinuance (“Assurance”), and stipulate and agree as follows.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent owns 12.5 acres of land and the related premises located at 940 Water Street in North Bennington, VT (the “Property”) identified in Book 449, Page 115, of the North Bennington land records. The Property is identified by School Identification Account Number (SPAN) 051-138-64968.
2. The Property is subject to Land Use Permit Series 8B0603.
3. On January 27, 2010, the District 8 Environmental Commission (“Commission”) issued Respondent Land Use Permit 8B0603, which “authorize[d] the Permittee to renovate the existing 3rd floor of an old mill building into 9 apartments (16 bedrooms) and modify/pave the northern parking lot.”
4. On August 9, 2010, the Commission issued Respondent Land Use Permit 8B0603-1, which “authorize[d] the Permittee to renovate the existing 2nd floor of the old mill building into 10 apartments (this Phase II = 18 bedrooms).”
5. On April 29, 2014, the Commission issued Respondent Land Use Permit 8B0603-2, which “authorize[d] the renovation of the 2nd and 3rd floors of an old mill building for 10 apartments (5 units each floor) in building 2, 6 units in building 4, and 4 units in Building 1, bringing the total unit count to 29.”

6. On August 7, 2017, the Commission issued Land Use Permit 8B0603-3 (“-3 Amendment”), which “authorize[d] the additional 20 rental living units (already built); and 95 dorm beds in 24 units in an existing complex on 12.50 acres.”
7. Condition 1 of the -3 Amendment states: “The Permittee, and its assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions.”
8. Condition 2 of the -3 Amendment states: “The project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit, (b) Findings of Fact and Conclusions of Law 8B0603-3, and (c) the permit application, plans, and exhibits on file with the District Environmental Commission and other material representations.”
9. Condition 19 of the -3 Amendment states: “All site work and construction shall be completed in accordance with the approved plans by October 1, 2018, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.”
10. Exhibit 028e to the -3 Amendment is a site plan dated April 12, 2017, last revised May 10, 2017, prepared by MSK Engineering and Design, Inc., and titled “HRH Management Water Street Dorms North Bennington, Vermont.” This exhibit identifies a dry hydrant to be installed on the Property. This dry hydrant is labeled “install Village of North Bennington Fire Department Approved Dry Hydrant System.”
11. Exhibit 028b to the -3 Amendment is the Village of North Bennington’s May 22, 2017 approval of Respondent’s proposal “to convert the historic industrial building...into a multi-family dwelling containing 24 dwelling units.” This approval contains the following condition: “That the applicant install a dry hydrant system and submit to the zoning administrator and the North Bennington Fire Department a site plan notating the location of all propane tanks.”
12. Respondent did not install the dry hydrant required by the -3 Amendment until July 9, 2020.
13. The Commission did not extend the construction completion date contained in Condition 19 of the -3 Amendment.
14. The Board alleges that Respondent violated Conditions 1, 2, and 19 of the -3 Amendment by failing to install the required dry hydrant by October 1, 2018.

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violations, the parties

hereby agree as follows:

- A. Respondents shall comply with Land Use Permit Series 8B0603.
- B. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondents shall pay, by separate checks, the following:
 - 1. Pursuant to 10 V.S.A. §8010(e)(2), the amount of **Three Thousand Eight Hundred Ninety Dollars and Eighteen Cents (\$3,890.18)** to reimburse the Natural Resources Board for the costs of this enforcement action, which Respondent shall pay by check made payable to the “Natural Resources Board.”
 - 2. The amount of **Fifteen Dollars (\$15.00)** for the purpose of paying the recording fee for the filing of a notice of this Assurance in the North Bennington land records, which Respondent shall pay by check made payable to the “Village of North Bennington, Vermont.”
- C. Without formally admitting or denying wrongdoing or liability, Respondent agrees to this settlement of the violations alleged above to resolve all outstanding disputes.
- D. Respondent agrees that the violations alleged are deemed proved and established as a “prior violation” in any future state proceeding that requires consideration of Respondent’s past record of compliance, such as permit review proceedings and calculating civil penalties under Title 10, section 8010.
- E. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondent shall mail the Board a notarized, written acknowledgement of receipt of the Court’s Order.
- F. All payments and documents required by this Assurance shall be sent to the following address unless otherwise noted:

Natural Resources Board
10 Baldwin Street
Montpelier, Vermont 05633-3201
- G. Respondent shall not deduct, nor attempt to deduct, any payment made to the State pursuant to this Assurance from Respondent’s reported income for tax purposes or attempt to obtain any other tax benefit from such payment.
- H. The State of Vermont and the Natural Resources Board reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein.

- I. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with applicable state or local statutes, regulations or directives.
- J. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Superior Court, Environmental Division. When so entered by the Superior Court, Environmental Division, 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.
- K. 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 set forth herein, provided that Respondent fully complies with this Assurance.
- L. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by Respondent, for good cause beyond Respondent's control.
- M. This Assurance sets forth the complete agreement of the parties, and except as provided herein, 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 Superior Court, Environmental Division.
- N. 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.
- O. When this Assurance is entered as a judicial order, violation of any provision of this Assurance shall be deemed to be a violation of a judicial order and may result in further enforcement action, including contempt proceedings, the imposition of injunctive relief, and/or the imposition of penalties, including penalties under 10 V.S.A. chapters 201 and/or 211.
- P. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

SIGNATURES (2 pages)

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

Dated at Albany, NY, this 21 day of May, 2021.

HRH Management LLC

By [Signature]

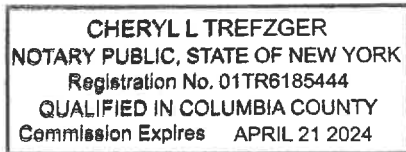
Duly Authorized Agent

STATE OF NEW YORK
COUNTY OF Albany, ss.

BE IT REMEMBERED that on the 21 day of May, 2021, personally appeared H.R. LOYD WILLIAMS, signer of the foregoing instrument and duly authorized representative of HRH Management, LLC, 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 HRH Management, LLC.

Before me,

[Signature]
Notary Public
My Commission Expires: 4/21/2021



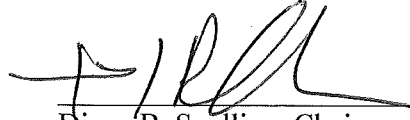
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 14th day of July, 2021.

Natural Resources Board

By:


~~Diane B. Snelling, Chair~~
Don Rendall