

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. _____

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

v.

PISCES PROPERTIES, LLC,
Respondent

ASSURANCE OF DISCONTINUANCE

VIOLATION

- I. Clear cutting of trees in violation of Condition No. 25 of Land Use Permit #4C0842.

ASSURANCE OF DISCONTINUANCE

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

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

- 1. On August 6, 1990, the District 4 Environmental Commission (the Commission) issued Land Use Permit #4C0842 (the Permit) to Leo and Theresa Gauthier specifically authorizing “the Permittee to subdivide a 179 acre tract of land into 26 industrial lots and a 136 acre open lot and to construct water, sewer, roadways and other utilities to serve the park which is located on Kellogg Road in the Town of Essex, Vermont.”
- 2. The Permit applies to the lands identified in Book 145, Pages 175 – 177 of the land records of the Town of Essex, Vermont.
- 3. Respondent subsequently purchased lot # 23 of the subdivision subject to the Permit. Lot #23 is a 1.17± acre parcel.
- 4. Condition No. 25 of the Permit states: “[c]lear cutting of the subdivision lots shall be prohibited except in the areas approved by the District Environmental Commission.”
- 5. Respondent clear cut lot #23 during the fall of 2009.

6. The Commission has not approved the clear cutting of lot #23.
7. Respondent violated Condition No. 25 of the Permit by clear cutting the trees on lot #23 without approval of the Commission.

AGREEMENT

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

- A. Within thirty days of the date on which this Assurance is signed by the Superior Court, Environmental Division, Respondent 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. Respondent 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 Respondent 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. 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.
- C. A notice of this Assurance shall be filed in the land records of the municipality where this project is located within thirty days of the date on which this Assurance is signed by the Superior Court, Environmental Division. Within fifteen days of the date on which this Assurance is signed by the Court, **the Respondent shall forward payment in the amount of Ten Dollars (\$10.00), by check made payable to the municipality in question,** to the Land Use Panel at the address listed above for the purpose of paying the recording fee.
- 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 Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.
- F. 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.

- G. Pursuant to 10 V.S.A. § 8007(d), the Respondent 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 Respondent fully complies 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 Superior Court, Environmental Division. 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.

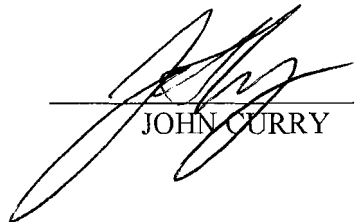
SIGNATURES

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

Dated at ESSEX, Vermont, this 9 day of August, 2010.

PISCES PROPERTIES, LLC

By:



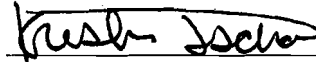
JOHN CURRY

STATE OF VERMONT
COUNTY OF Chittenden, ss.

BE IT REMEMBERED that on the 9th day of August, 2010, personally appeared JOHN CURRY as the duly authorized agent of PISCES PROPERTIES, LLC, signer of the foregoing instrument who is known to me or who satisfactorily established his identity to me and acknowledged the same to be the free act and deed of PISCES PROPERTIES, LLC and that he has the authority to contract on behalf of PISCES

PROPERTIES, LLC 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

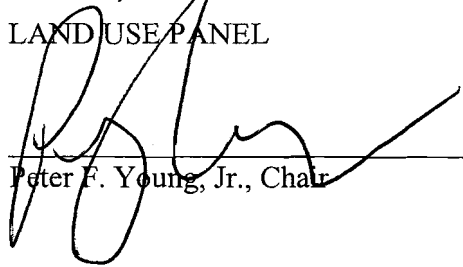
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 17th day of AUGUST, 2010.

LAND USE PANEL

By:


Peter F. Young, Jr., Chair