

November 22, 2009

Laura Scott, Community Development Director  
Town of Windham  
3 North Lowell Road  
Windham, NH 03087

Re: Sneider v. Town of Windham (Brian Bauchman and Bauchman Towing Variance)

Dear Ms. Scott:

The Supreme Court of New Hampshire ruled on the above referenced case on July 31, 2009 (the "Court Order") yet the Town of Windham (the "Town") has been complacent in allowing the applicant to continue operating his business in direct violation of the Court Order. The purpose of this letter is twofold – 1. to demand the Town take immediate action to enforce the Court Order, and 2. to serve as notice to the Town that if the Town continues down the path of inaction concerning this matter, we will avail ourselves of any and all remedies afforded us in both law and equity.

Ever since the decision by the courts was finalized, the Town has taken a mild, tepid approach to enforcing the Court Order allowing the applicant to ignore inquires, refuse negotiations, and basically dictate to the Town a timeline in which he will allegedly cease operations. This is unacceptable and inexplicable. As we understand it, the applicant has signed a purchase and sales agreement for a parcel of land in Londonderry, NH and is in the process of seeking the appropriate approvals to relocate his business, yet there is no record at the Londonderry Planning office of an application being filed concerning this parcel. In light of this purported effort, the Town has adopted a "wait and see approach" and has suspended all enforcement efforts through March 31, 2010(8 months after the Court Order) without the benefit of a court approved stipulation or, at the very least, a written agreement.

Once again, it appears the Town has chosen to reward illegal behavior to the detriment of law abiding citizens who are forced to expend their hard earned money to rectify injustices levied upon them. We refuse to stand idly by as the Town clears a path, through inaction, for the applicant to pursue a zoning change in a last ditch effort to legalize his operations. Isn't it a bit curious that March 31, 2010(after the 2010 Town Warrant) was the date selected by the applicant? When given the choice of being branded cynics or protecting our rights, we choose the later. If past behavior is any indication of future action, then rest assured the applicant will continue to manipulate the system as long as possible. Why the Town chooses to facilitate such conduct is mind boggling given that this whole predicament was a direct result of a series of faulty Town decisions. The fact that the Town continues to utilize the applicant's services, in light of the Court Order, is also very troubling.



The simple fact of the matter is the applicant had ample time during the court proceedings to make alternate plans for his business should the decision turn out as it did. Therefore, enforcement should have been swift and exacting. Allowing additional time is rewarding illegal behavior and sends a message to other scofflaws that the Town will only protect its citizens when convenient for it to do so or when it doesn't derive a direct benefit from the offending party. The town must take action immediately. Reinstate the enforcement case and start penalizing the applicant. If the town continues down the path it has begun, we will be forced to take additional legal action including, but not limited to, seeking a writ of mandamus and filing various civil suits against the town. In addition, we will try this case in the court of public opinion digging as deep as we can and exposing any and all questionable transgressions arising out of this matter.

Sincerely,

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