

State of Vermont
Superior Court - Environmental Division

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ENTRY REGARDING MOTION

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Town of Fairfax v. Beliveau

Docket No. 274-11-08 Vtec

Title: Motion for Enlargement of Time for Compliance (Filing No. 30)

Filed: October 24, 2012

Filed By: Defendant Leon Beliveau

Response filed on 11/8/12 by Plaintiff Town of Fairfax

Granted

Denied

Other

Defendant was ordered to cease use of his property as a rooming and boarding house and return the use of the property to that of a single-family dwelling until obtaining a permit for a change of use. Although Defendant ceased the rooming and boarding use, he has failed to return the property to a single-family use. This Court's original order requiring Defendant to take these actions was issued on October 24, 2011. In response to the Town's motion for contempt, on July 24, 2012, this Court renewed its order that Defendant fully comply with the 2011 Order requiring him to return use of the property to that of a single-family dwelling or obtain Town approval for a change of use of the dwelling. The revised deadline for Defendant to fully comply was October 24, 2012, one year from the Court's original order. On October 24, 2012, Defendant filed a motion to extend his compliance deadline from October 24, 2012 to December 7, 2012.

Although Defendant has taken steps toward achieving compliance with the Court's orders, he has failed to convince this Court that a further time extension is appropriate. Defendant has filed an application with the Town for a change in use; however, he has not obtained approval of his application. In the meantime, Defendant has not modified his non-permitted use of the property, which presents significant safety concerns.

We thus, pursuant to V.R.C.P. 62(d), **DENY** the motion for enlargement of time and **ORDER** Defendant to pay the Town a fine of \$9,200. This sum represents \$100 per day from July 24, 2012 through October 24, 2012, per our July 24, 2012 order. We further impose a fine of \$100 per day from today (November 13, 2012) until Defendant achieves full compliance with the Court's Order.

In our July 24, 2012 order, we noted that "[i]n the unfortunate event that further contempt actions are necessary due to Defendant not achieving full compliance with the injunctive order on or before October 24, 2012," we would reconsider the Town's requests for reimbursement of all its costs and fees relating to contempt, which, at the time, we had denied. Here we reconsider the Town's request and **GRANT** the Town's request for reimbursement of its costs and fees incurred in prosecuting its motion for contempt relating to this Court's order, which was issued more than one year ago.

Thomas G. Walsh, Judge

November 14, 2012
Date

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Date copies sent to: _____

Clerk's Initials _____

Copies sent to:

Attorney John H. Klesch for Plaintiff Town of Fairfax
Attorney Peter J. McDougall for Defendant Leon Beliveau