

**Vermont Superior Court  
Environmental Division**

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**ENTRY REGARDING REQUEST**

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**Town of Georgia**

**vs.**

**Ronald King and Laurie King**

**Docket No. 105-6-10 Vtec**

(Municipal zoning enforcement proceeding)

Title: Correspondence expressing concerns and requesting clarification (Filing No. 13)

Filed: November 15, 2011

Filed By: Defendant Ronald King

Response filed on 11/22/11 by David W. Rugh, Co-Counsel for Town of Georgia

Granted             Denied             Other

By his letter dated Nov. 13, 2011, filed with the Court on Nov. 15, 2011, Defendant Ronald King expressed several concerns, including a concern regarding the scheduling of this matter for re-trial. The re-trial is currently scheduled to begin on Thursday, Dec. 14, 2011 and continue (if needed) through Friday, Dec. 15, 2011. Mr. King expressed a concern that the re-trial had not been scheduled for two days, as he requested. The Court regrets that the two day scheduling was not made more clear and assures Mr. King that the Court intends to make all the time needed available for all parties to present admissible, relevant testimony and other evidence.

We take this opportunity to remind Mr. King and all other parties of the limited nature of this re-trial. This case concerns the Town's claims for penalties, and defendants' responses thereto, concerning zoning violations. The Court previously conducted a trial of these claims and rendered a Judgment Order, dated and filed Sept. 13, 2011. The Court subsequently granted Mr. King's request for a new trial, pursuant to an Entry Order dated and filed Oct. 19, 2011. As a consequence of that Entry Order, the Court announced that at the re-trial, pursuant to V.R.C.P. 59 (a), all parties would be afforded the opportunity to present admissible, relevant evidence and legal arguments on

“whether the Court should adjust, downward or upward, its prior judgment order concerning what penalties should be assessed upon Defendants based on their violation of the Town's ordinance identified in the Notice of Violation issued to them. Parties are also reminded that they should not repeat evidence that has already been submitted to the Court in the prior proceeding.”

Town of Georgia v. King and King, No. 105-6-10 Vtec, Entry Order at 2 (Vt. Super. Ct. Oct.19, 2011)(Durkin, J.).

The Court emphasized that, pursuant to V.R.C.P. 59(a), the penalties assessed in its Sept. 13, 2011 Judgment Order may be adjusted “downward or upward” because of the nature of Mr. King's request for a new trial. Mr. King has alleged a number of actions by others, as well as other facts that, if proved true, could result in

a significant reduction or complete elimination of the penalties assessed against him and his Co-Defendant. However, if after hearing all the evidence presented at the re-trial, the Court concludes that Mr. King has failed to adequately substantiate his allegations, then he will have caused the Town to incur additional legal expenses and other costs in its pursuit of zoning compliance. It is for this latter reason that the Court gave the parties notice and reserved the discretion to adjust the prior penalty assessment “downward or upward.” Id.

Mr. King also expressed concern about his ability to timely serve subpoenas upon the witnesses he regards as necessary at re-trial. In a follow-up correspondence dated Nov. 25, 2011 and filed Nov. 28, 2011, Mr. King advised that he still wanted the Court to “keep that date on the calendar” for the re-trial. We are concerned about Mr. King’s ability to prepare for trial and complete service of his witness subpoenas within the remaining time, but respect his request that the re-trial remain scheduled.

In light of Mr. King’s request and representations, the re-trial remains scheduled for Dec. 14–15, 2011 at the Franklin Superior Court – Civil Division, in St. Albans, Vermont.

The Court will rule at trial upon any challenges to any subpoenas or the admissibility of testimony offered by any party.

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Thomas S. Durkin, Judge  
November 30, 2011  
Date

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Date copies sent to: \_\_\_\_\_ Clerk's Initials \_\_\_\_\_

Copies sent to:

Amanda Lafferty, John H. Klesch and David W. Rugh, Attorneys for Town of Georgia  
Defendant Ronald King  
Defendant Laurie King