

State of Vermont
Superior Court – Environmental Division

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ENTRY REGARDING MOTION

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Town of Westford v. Mathieu Properties, LLC
(Municipal Enforcement Action)

Docket No. 28-2-12 Vtec

Title: Motion to Dismiss (Filing No. 1)

Filed: April 3, 2012

Filed By: Defendant, Mathieu Properties, LLC

Reply Filed: April 23, 2012 by Plaintiff, Town of Westford

Response Filed: May 3, 2012 by Defendant, Mathieu Properties, LLC

Granted

Denied

Other

The disputes between the Town of Westford, the above named Defendant (Mathieu Properties, LLC), and those who the Court assumes constitute its members (Linda Mathieu and Richard Mathieu) extends over many more months than the above Docket Number implies. At issue is the original subdivision of land north of the Westwood-Milton Road and west of Vermont Route 128. The Mathieus sought several amendments to their original subdivision approval. As noted in the separate Entry Order, also issued today, that addresses cross motions for partial summary judgment in the enforcement action against Mrs. Mathieu (Docket No. 153-9-10 Vtec), one or more of the Defendants caused an alternate internal access road to be developed without first obtaining a permit authorizing the access road work.

In response to the Town's Complaint in this Docket, Defendant LLC filed the pending Motion to Dismiss. Defendant LLC asserts that the Town's Complaint must be dismissed because it was not filed by February 23, 2012, which was a deadline for filing the "related enforcement action" against the LLC that the Court established in a Scheduling Order for the related actions, dated February 13, 2012. The Town concedes that it did not file its Complaint against the Defendant LLC by February 23, 2012; the record confirms that the Town's Complaint was filed four business days later, on February 29, 2012.

The Town was obligated to abide by the Court's directives concerning filings, or to request an extension of time before the deadline passed. Nonetheless, given the brief time that elapsed between the due date and the Town's actual filing, Defendant LLC's failure to assert any substantive harm due to this brief delay, and the need to assist the parties in bringing finality to the multi-layered disputes that remain between them, the Court declines to dismiss the Town's Complaint. Defendant LLC's Motion to Dismiss is therefore **DENIED**.

Because we have denied Defendant LLC's Motion to Dismiss, we hereby direct that Defendant LLC file its answer and other responsive pleadings to the Town's Complaint no later than **Wednesday, October 24, 2012**, pursuant to V.R.C.P. 12(a)(3)(A).

Thomas S. Durkin, Judge

October 10, 2012
Date

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Date copies sent: _____

Clerk's Initials: _____

Copies sent to:
Attorney Amanda Lafferty for Plaintiff Town of Westford
Attorney Annie Dwight for Defendant Mathieu Properties, LLC