

APR 27 2017

STATE OF VERMONT VERMONT SUPERIOR COURT ENVIRONMENTAL DIVISION ENVIRONMENTAL DIVISION Docket No. 145-11-16 Vtec

SUPERIOR COURT

City of Burlington,)
Plaintiff)
v.)
Dean R. and Nancy S. Roy,)
Defendants)

JUDGMENT ORDER

This matter relates to the City of Burlington’s November 9, 2016 Enforcement Complaint and request for Injunctive Relief (Complaint), alleging that Dean R. Roy and Nancy S. Roy (Defendants) have continued zoning violations on their property at 135 Cross Parkway in the City of Burlington, Vermont (the City). The City notified Defendants of the alleged violations in a November 10, 2015 Notice of Violation. The Complaint alleged that Defendants did not appeal the Notice of Violation nor cure the violations.

Due to Defendants’ failure to appeal or otherwise timely challenge the November 10, 2015 Notice of Violation, the alleged violations are final and binding. 24 V.S.A. §§4472(a), (d). Furthermore, as a consequence of Defendants failure to timely answer the City’s complaint or respond to the City’s Motion for Default Judgment, the Court granted the City’s Motion for Default Judgment on March 13, 2017 and sent notice to all parties for an April 10, 2017 hearing to determine the appropriate remedies and penalties for the violations (remedies hearing). Kimberlee J. Sturtevant, Attorney for the Plaintiff City of Burlington, and Defendant Dean R. Roy appeared at the remedies hearing. Defendant Nancy S. Roy did not attend the remedies hearing.


Based on the evidence presented at the remedies hearing and the filings of the parties, we **GRANT** the City an injunction and **ORDER** that:

1. Defendants shall cease all noticed zoning violations at 135 Cross Parkway.
2. No later than July 10, 2017, Defendants shall remove all items currently stored outside on the property, except appropriate items that can be stored in an area(s) no greater than an aggregate of 24 square feet on the property.
3. No later than July 10, 2017, Defendants shall restore any green space (grass) that has been damaged by the illegal exterior storage.
4. Continuing into the future, defendants shall not store items on the grass, except as permitted by City ordinance.

In addition, after balancing the continuing violations against the cost of compliance and other relevant factors, and pursuant to 24 V.S.A. § 4451 and CDO §2.7.7(b), Defendants are **ORDERED** to pay a fine totaling \$10,600.00. However, if Defendants clean up the site, including restoration of the green areas, by July 10, 2017, they will only be obligated to pay \$7,600. The Defendants are required to pay the fine in full no later than October 10, 2017. The City shall record a certified copy of this Judgment Order in the City of Burlington Land Records. The fine shall run with the land, and if Defendants transfer the property prior to October 10, 2017, the fine shall then be due to the City immediately.

This concludes the matter before the Court.

Dated at Newfane, Vermont, this 27th day of April 2017.



Thomas S. Durkin, Judge,
Vermont Superior Court—Environmental Division