

Adirondack Daily Enterprise  
December 27, 2009

## APA wins some, loses some

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It was an up-and-down year in the courtroom for the state Adirondack Park Agency, which lost one high-profile legal battle but won another.

In July, the Appellate Division of state Supreme Court upheld a decision from Essex County state Supreme Court Judge Richard Meyer that found three cottages Salim "Sandy" Lewis built on his 1,200-acre organic farm in the town of Essex do not require APA permits.

The APA had claimed it had jurisdiction because they were single-family dwellings built on land zoned for resource management.

But in a landmark decision, the Appellate Division justices agreed with Meyer's finding that the single-family dwellings are exempt from the APA Act because they're for agricultural use. The appeals court also said the state's "strong pro-farming policies" apply to the Adirondacks just like they would anywhere else in New York.

The state threw in the towel on the case when the Attorney General's Office, which represented the APA, decided not to petition the state's highest court for an opportunity to appeal the decision.

But the battle isn't over yet. In August, Lewis filed a motion before Judge Meyer to try and recover over \$200,000 in legal fees and expenses he incurred in fighting the APA. Meyer heard oral arguments on the motion in late October.

While the Lewis case was a significant and well-publicized loss for the APA, the agency claimed victory in another high-profile case when a federal judge dismissed Arthur and Margaret Spiegel's claim that the APA maliciously targeted their Lake Placid house for an enforcement investigation.

U.S. District Judge William Sessions found the actions of the APA and its staff were rationally based and said the Spiegels failed to prove their "selective enforcement" claim against the agency.

APA Chairman Curt Stiles called the decision a "victory." Like the Lewis case, however, the Spiegel matter is still playing out.

The state Attorney General's Office had filed a lawsuit against Spiegel, on behalf of the Park Agency, to enforce the APA's four-year-old order for the Spiegels to move, lower and screen their house in the Fawn Ridge subdivision to make it less visible. That litigation is still pending in Essex County state Supreme Court.

The APA's won-loss record in these two cases is the same as attorney John Privitera, who represented both Sandy Lewis and the Spiegels.

Another APA enforcement case, this one involving a Silver Lake developer and campground owner, made headlines this year.

In November, the Park Agency agreed to drop its enforcement action against Leroy Douglas after Douglas said he would provide the agency with a sworn statement showing he had remediated a wetlands violation on his property.

The move came two months after Matthew Norfolk, Douglas' attorney, asked the administrative law judge assigned to the proceeding to dismiss the enforcement action. Norfolk argued that the APA was working in collusion with the environmental group the Adirondack Council "to strategize and plot against his client" in an attempt to stop his development plans.

APA officials denied the allegations, but Norfolk's motion became moot after the agency agreed to drop the case.

The collusion claims resurfaced two weeks later when Douglas filed a \$2.1 million lawsuit against the Adirondack Council for interfering in his business affairs. The Council called the lawsuit "absurd." Douglas also hinted at a possible federal lawsuit against the APA.

As the year came to an end, a top APA attorney who was involved in all three cases was removed as the head of the agency's enforcement division. Paul Van Cott was reassigned to work with APA general legal counsel John Banta, just days after he sent an e-mail to Lewis calling him a "sociopath."

APA officials said Van Cott's removal was connected to the e-mail but also said the decision was part of a reorganization of the legal division prompted by recent and pending retirements.

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