

IN RE: APPEAL OF DEPARTMENT ORDER L-28397-4E-A-N  
JEFFRY SPINNEY, LICENSEE, Pier System and Boat Ramp, Alna

APPELLANTS' OPPOSITION TO REQUEST FOR ADMISSION OF  
SUPPLEMENTAL EVIDENCE

The Appellants hereby oppose the request for admission of supplemental evidence submitted by Licensee. As grounds for this Opposition, Appellants note that in seeking to admit supplemental evidence, the Licensee is seeking to alter the record upon which his license should be judged. While the Licensee suggests that these additional documents are offered at the earliest possible time, citing the admissibility standards of Chapter 2, Section 24(D)(2), he fails to demonstrate why these materials could not have been offered to the Department during the permitting process. In fact, each of these documents is created by the Licensee. Therefore, it is evident that they were withheld from the application so as to continue to obscure and deflect from the substantial defects in the application, namely that the Applicant's efforts to develop a private pier and boat ramp is not permissible. Conversely, these documents further demonstrate and show that the Golden Ridge Sportsman's Club, the entity relied on to buttress a claim that the pier system and boat ramp would provide access to the public, in fact, has no right, title, and interest in the land sought to be developed.

While the proposed supplemental evidence is surely material and relevant (thereby satisfying the first requirement of Chapter 2, Section 24 pertaining to requests for admission of supplemental evidence), there can be no credible claim that it is newly discovered nor that it could not have been produced sooner. Where those conditions cannot be satisfied, the request must be denied. Ch. 2, section 24(D) and the Record for the appeal must be limited to the administrative record prepared by Department staff in its review of the Application. As noted, these documents were wholly in the control and are the creation of the Licensee. The organizational documents the Golden Ridge Sportsman's Club and the revocable License surely could have/should have been

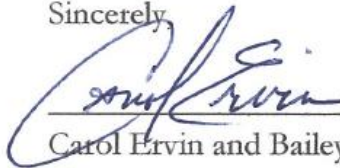

finalized in the nearly a year that the application was pending. Instead, the Licensee held back the documents apparently believing that the inchoate, incomplete documents afforded him an opportunity to ignore the Appellants' credible and documented concerns about (1) how the boat ramp and pier was not in fact for public use and (2) that the Sportsman's Club has no right, title, and interest in the land burdened by the pier and boat ramp and the access to that pier and boat ramp.

To suggest that these documents, drafted by the applicant, could not have been finalized sooner is disingenuous and must be rejected. The record should be limited to the materials assembled by Department staff.

If the Chair, nonetheless, concludes that this supplemental additional evidence should be admitted, that the Appellants ask that they be permitted 20 days after the Chair's decision on the admissibility of all proposed supplemental evidence to respond substantively to this new material. Cf, Chapter 2, Section 24(C)(4).

Dated this 21<sup>st</sup> day of May, 2020.

Sincerely,

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