

## EXHIBIT F

LAUREL J. EVELEIGH

ATTORNEY AT LAW

2689 BURLINGAME ROAD

CANASTOTA, NEW YORK 13032

TELEPHONE: (315) 697-8405 FACSIMILE: (315) 697-8434

E-MAIL: LAUREL@EVELEIGHLAW.COM

September 14, 2007

Derek Brocklebank, Esquire  
The Brocklebank Firm  
53 North Main Street  
Canandaigua, New York 14424

RE: Replacement of Existing Mobile Home in Fallbrook Mobile Home Park

Dear Mr. Brocklebank:

Thank you for speaking with me last week in your capacity as Town Attorney about my client, Affordable Great Locations' Fallbrook Mobile Home Park in the Town of Canandaigua. As I explained on the telephone, my client seeks to replace an existing mobile home within a currently non-conforming mobile home park that has existed since the early 1960s. The replacement home is of like kind, size and quality to the home already in place. My client was refused a building permit and told by the zoning enforcement officer that he would be required to secure a variance from the current setback requirements of the Canandaigua Manufactured Homes Law before a building permit would issue. As I indicated during our conversation, my understanding is that under these circumstances and New York State law, no such variance is warranted or can be required.

There is no question that if a pre-existing legal non-conforming mobile home park were to propose the addition of new home sites or mobile home pads, it would be required to comply with all setback and bulk requirements then in place with respect to the new sites to be established. In other words, if the local law then required a twenty-five foot setback from adjoining sites, the park road or other thoroughfares, all of the proposed new sites would be required to meet those specifications. That is not the case, however, when an existing mobile home is being replaced with a new mobile home on a long-established site within the park. Because the individual mobile home sites within the park are, effectively, the park owner's "inventory," later-adopted regulations cannot operate to deprive the park owner of his "inventory" by imposing stricter (indeed, impossible) setbacks on the pre-existing sites due to the mere replacement of a home. The Onondaga Supreme Court addressed a very similar issue not quite a year ago in *Elbridge Land Company v. Town of Elbridge*, Thomas J. Murphy, J.S.C., Index No. 2006-4152 (November 22, 2006). There, where the Town of Elbridge had attempted to deny a building permit for the replacement of a mobile home on a mobile home site that had been vacant for more than six months (the statutory period for abandonment of a non-conforming use under the local law), the court concluded that the town could

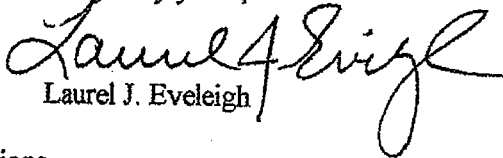
not "lawfully apply non-conforming principles to the component parts of a legally-established non-conforming business." I have included a copy of that decision with this letter for your convenience. Likewise here, the town cannot legally impose later-adopted setback requirements to existing mobile home sites (the component parts of this non-conforming business) which would, in effect, preclude the use of the lot.

What my client proposes to do here is really quite simple, and, ultimately will prove advantageous to the aesthetics of the park and, consequently, the town. The park seeks a building permit to replace a 1999 14'x68' Skyline Limited Edition home with a 1986 14'x66' Ritzcraft home on a mobile home site that has existed since the park was established in the 1960s. This is not the first time that a home has been swapped out on this pad or on other pads within the park and, because the removal and replacement of mobile homes within the park is the means by which tenancy in the park often changes, it is unlikely to be the last time my client will make such a request. The proposed replacement home will not increase any non-conformity that already exists, will maintain all existing setbacks and will actually improve the overall look of the park by upgrading the individual unit. The replacement home meets all federal, state and local regulations for manufactured housing and the individual home site meets all health and safety regulations for water, sewer, electric and fuel service and connections. Accordingly, a building permit should issue without delay.

As we discussed on the phone, my client is not averse to working with you to give the town a baseline understanding of what exists at the park to simplify such applications in the future and ensure that there is no increase in the nonconforming use. Since we spoke I have learned that the town very likely already has such a baseline understanding inasmuch as it taxes the individual mobile home units on an annual basis based on lot size, square footage and the like and the mobile home park has a mobile home park license from the town that is valid until 2009. (Park ownership is in a company called Advanced Living Properties, Inc. and the operating permit is issued in the name of Advanced Living Properties, Inc. for the Fallbrook Mobile Home Park). Nevertheless, we would be willing to supply whatever reasonable additional information the town may request to allow the issuance of a building permit without delay. My client has a tenant who is ready, willing and able to move into the park upon installation of her mobile home. Moreover, because of the delay in issuing the building permit for placement of the home, my client has both been losing rent for the mobile home site and footing the bill for storage of its proposed tenant's belongings. As you might imagine, my client is quite anxious to get this issue resolved as quickly as possible.

Please do not hesitate to contact me at your earliest convenience to discuss this matter. I look forward to working with you to reach a speedy and amicable resolution.

Very truly yours,

  
Laurel J. Eveleigh

Russ Corey, Affordable Great Locations

chron

LAUREL J. EVELEIGH  
ATTORNEY AT LAW

2689 BURLINGAME ROAD  
CANASTOTA, NEW YORK 13032

TELEPHONE: (315) 697-8405 FACSIMILE: (315) 697-8434  
E-MAIL: LAUREL@EVELEIGHLAW.COM

September 27, 2007

Derek Brocklebank, Esquire  
The Brocklebank Firm  
53 North Main Street  
Canandaigua, New York 14424

RE: Agreement to Provide Existing Conditions Map and Permission to Replace  
Existing Mobile Home In Fallbrook Mobile Home Park

Dear Mr. Brocklebank:

I am writing to memorialize our conversation yesterday regarding my client, Affordable Great Locations' (AGL) Fallbrook Mobile Home Park in the Town of Canandaigua. As you know, AGL seeks to replace an existing mobile home on Lot 37 in the currently non-conforming Fallbrook Mobile Home Park. The replacement home is of like kind, size and quality to the home that previously occupied the Lot 37 site. As we discussed, the Town and AGL are willing to forego any formal contest regarding AGL's right to replace this home or the Town's power to require a variance for placement of the home in favor of a negotiated resolution between the parties.

Specifically, the Town has certain concerns regarding its ability to identify the "status quo" or existing conditions within the park as of December, 2006, when the Town amended Chapter 68 of the Town of Canandaigua Town Code entitled "Manufactured Homes." The conditions at the time of the amendment determine the extent of AGL's legal non-conforming use of the park and, without some "benchmark" or "baseline" against which to judge proposed changes in the future, the Town would be unable to evaluate whether the proposal was fairly within the parameters of the legal non-conforming use. Accordingly, AGL has agreed to prepare and submit a community plan or map depicting all existing mobile home sites within the park including setbacks, outbuildings, roads, parking areas, service areas, utilities and common areas, as well as all existing mobile home units and their dimensions. The Town and AGL would both endorse the community plan as accurately depicting the conditions of the park as of the date indicated and agree that the community plan would be the baseline for the evaluation of any future change proposals. AGL agrees to produce such a plan as promptly as possible, but in no event would the plan be submitted to the Town any later than October 31, 2007.

In recognition of AGL's willingness to produce and endorse a community plan showing

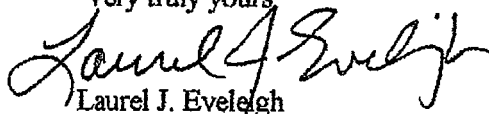
existing conditions for the Town's use, the Town has agreed to issue a building permit to place a 1986 14'x66' Ritzcraft home on Lot 37 within the park, a mobile home site that has existed since the park was established in the 1960s. The proposed home and all adjoining buildings and setbacks are depicted on the plan attached hereto, which demonstrates that the proposed replacement home will not increase any non-conformity that already exists and will maintain all existing setbacks. AGL also affirmatively warrants that the replacement home meets all federal, state and local regulations for manufactured housing and the individual home site meets all health and safety regulations for water, sewer, electric and fuel service and connections.

Inasmuch as AGL has a tenant who is ready, willing and able to move into the park upon installation of her mobile home and the new tenant is currently storing her belongings at the park's expense, the Town recognizes that time is of the essence and has agreed to issue the building permit for the proposed replacement home on Lot 37 immediately, based upon the plans submitted and AGL's promise to provide the requested community plan for future use. Correspondingly, AGL agrees to provide the Town with its community plan without delay.

Thank you for your willingness to work out this issue with my client and agreement to work with AGL in establishing the baseline conditions in the park in the form of a community plan. If the foregoing accurately represents your understanding of what we discussed yesterday, please sign and return one of the duplicate originals of this letter to me and retain the other original for your files. Assuming that we are in agreement, I expect that the codes officer will begin review of the building permit application for Lot 37 without delay and take action on it as soon as possible. Likewise, my client will begin preparation of the community plan for submission to the town. If there are material differences in your understanding of our discussions, please contact me as soon as possible so we can work out any differences we may have.

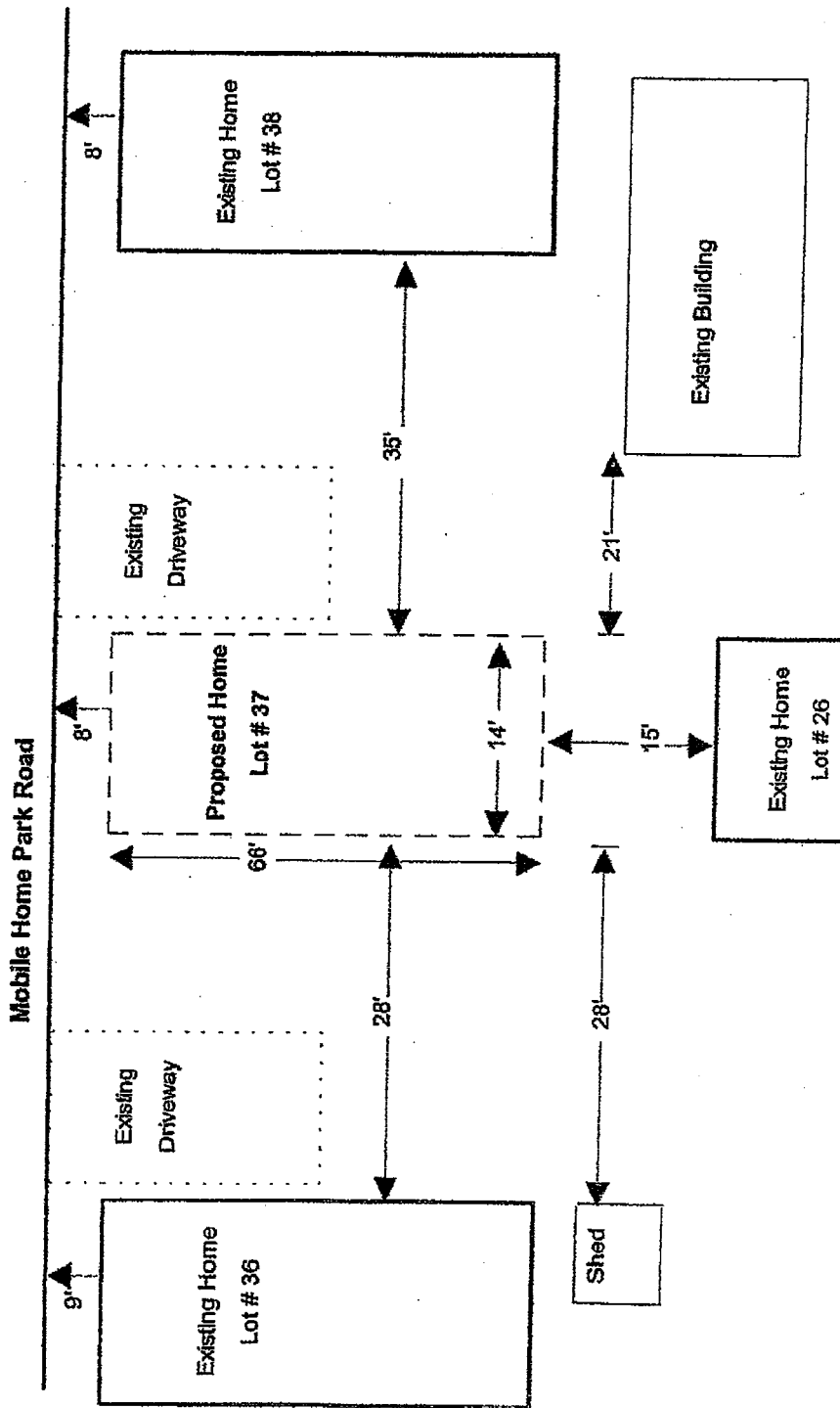
Please do not hesitate to contact me at your earliest convenience to discuss this matter. I look forward to continuing to work with you.

Very truly yours

  
Laurel J. Eveleigh

\_\_\_\_\_  
Derek Brocklebank                      Date  
Town Attorney, Town of Canandaigua

Russ Corey, Affordable Great Locations



chron

LAUREL J. EVELEIGH  
ATTORNEY AT LAW

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CANASTOTA, NEW YORK 13032

TELEPHONE: (315) 697-8405 FACSIMILE: (315) 697-8434  
E-MAIL: LAUREL@EVELEIGHLAW.COM

May 28, 2008

Derek Brocklebank, Esquire  
The Brocklebank Firm  
53 North Main Street  
Canandaigua, New York 14424

RE: Fallbrook Mobile Home Park

Dear Mr. Brocklebank:

As you know, we spoke and corresponded regarding the Fallbrook Mobile Home Park ("Fallbrook") in the Town of Canandaigua last fall when my client, park owner Leading Edge Properties, sought a building permit to replace a mobile home unit within the park. At that time, I explained that Fallbrook, established in the 1960s and pre-dating any mobile home park regulations within the Town, constituted a legal pre-existing non-conforming use and was not required to comply with later-enacted regulations. We discussed the Town's interest in obtaining a "baseline" understanding of the conditions within the park as of late 2006, when the Town amended Chapter 68 of the Town of Canandaigua Town Code entitled "Manufactured Homes." The Town was concerned that, without such a baseline against which to judge proposed changes in the future, the Town would be unable to evaluate whether some future proposal was fairly within the parameters of the legal non-conforming use.

To alleviate the Town's concerns, we agreed that Fallbrook would provide a community plan or map depicting all existing mobile units and their dimensions. Fallbrook provided such a plan on January 23, 2008. On several occasions since that time, I have expressed my concern that the town's codes enforcement office does not seem to understand the purpose of the plan Fallbrook submitted or the limitations on the Town's zoning and planning power over legal non-conforming uses. My concerns are proving to be well founded.

One of the first indications of this problem was the codes enforcement officer's statement to my client that she intended to establish uniform setbacks within the park by averaging the setbacks of the existing sites as depicted on the community plan. Despite our having discussed why this was inappropriate, and your assurances that the codes office understood the issue, on February 11, 2008, Zoning Officer Jean Chrisman sent my client a laundry list of additional information that she is requiring my client to submit prior to issuing a certificate of occupancy for the replacement unit that brought this issue to the fore in the fall of 2007. The letter stated

that "the Town would like to formulate required setbacks for your property. The requested information is required to calculate the required setback distances."

The Town's insistence on this issue is simply confounding. As I explained in my initial correspondence of September 14, 2007, if a pre-existing legal non-conforming mobile home park were to propose the addition of new home sites or mobile home pads, it would be required to comply with all setback and bulk requirements then in place with respect to the new sites to be established. In other words, if the local law then required a twenty-five foot setback from adjoining sites, the park road or other thoroughfares, all of the proposed new sites would be required to meet those specifications. That is not the case, however, when an existing mobile home is being replaced with a new mobile home on a long-established site within the park. The existing sites are what they are, and no new setback or bulk requirements can be imposed simply because the park owner seeks to replace one mobile home with another on an existing site within the park. As a result, the concept of "formulating required setbacks" or "calculating required setback distances" within the pre-existing legal non-conforming park is neither necessary nor even within the Town's zoning power.

And there is no doubt that the town simply does not have the authority to withhold a certificate of occupancy for a mobile home unit that meets all federal, state and local regulations for manufactured housing and all health and safety regulations for water, sewer, electric and fuel service and connections. The Town holding a certificate of occupancy hostage until it gets a raft of information that the non-conforming business is under no obligation to provide is arbitrary and illegal and has cost my client significant revenues. The certificate of occupancy should be issued immediately and the officials responsible for processing building permit applications and issuing certificates of occupancy should be instructed as to the scope of their review power over pre-existing, non-conforming parks so that this situation does not repeat in future applications.

In addition, on April 10, 2008, the codes office sent Fallbrook a letter claiming that, pursuant to section 68-25 of the Manufactured Home Parks Law, the park is required to apply for and obtain a biennial mobile home park license. The license application requires that the park owner submit a great deal of background information, including copies of site plans, photographs and evidence of compliance with all prior planning board conditions of approval, much of which does not even exist with respect to a pre-existing non-conforming park such as Fallbrook.

As a threshold matter, section 68-25 of the Manufactured Home Parks Law does not, as the codes office maintains, "require manufactured home parks existing at the time of the adoption of the local law [to] obtain a Manufactured Home Park License from the Town of Canandaigua." Rather, section 68-25 addresses property "to be used for a manufactured home park" that is already zoned MH and property "to be used for a manufactured home park" that is not already zoned MH and requires that they apply for and obtain a zoning change and/or site plan approval, as appropriate and then obtain a license. Section 68-25 is, by its own terms, prospective only. Section 68-25 does not, by its own terms, apply to pre-existing parks.

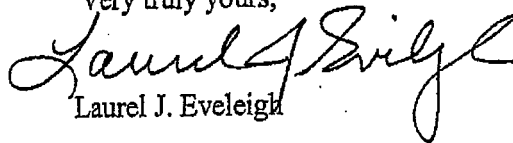
Secondly, the Town simply cannot require that a legally established, pre-existing use go through the very zoning hoops that its non-conforming status exempts it from in the name of applying for a license. In other words, just as the Town cannot require an established use to

obtain site plan approval or conform to bulk and setback requirements that were later-enacted, the Town cannot impose a license requirement and demand that it submit a site plan and conform to bulk and setback requirements as a condition to issuance of the license. Were they allowed, such back-door requirements would eviscerate all protection of legal non-conforming uses.

Fallbrook voluntarily provided the Town with a plan, essentially its site plan, showing the existing conditions as of the time that it was submitted. As we have demonstrated in the past, my client is more than willing to work with the Town to ensure that the Fallbrook park remains a healthy, safe and attractive residential community. In keeping with that spirit of cooperation, Fallbrook will, under protest and a full reservation of rights, submit a license application and fee to the Town by the May 30, 2008 deadline, with a copy of the voluntary plan we submitted in January of 2008 as well as its regulatory licenses, inspections and/or permits as requested in the license application. We fully expect that such information will be sufficient and that a license will be issued for the Fallbrook park based on that documentation alone without delay.

I am hopeful that we will be able to work out these issues between my client and the Town. I am attaching copies of the zoning office's letters to my client for your review, as I noticed that you were not copied on them. Please do not hesitate to contact me if you wish to discuss this matter. I look forward to continuing to work with you.

Very truly yours,

  
Laurel J. Eveleigh

Russ Corey, Leading Edge Properties

# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424  
(585) 394-1120  
Fax (585) 394-9476

*Established 1789*

February 15, 2008

Mr. Lou Giorgione  
AGL Homes  
4305 Avon-Caledonia Road  
Caledonia, New York 14423

RE: Fallbrook Manufactured Home Park  
3260 NYS Route 364  
Tax Map # 98.08-1-8.100

Dear Mr. Giorgione:

Thank you for submitting a site plan of the above reference manufactured home park. The site plan that was received on January 23, 2008 notes an interior road, home locations with their setback to the interior park road, distances between existing homes and distances to/from the maintenance building.

Dan O'Brien and I have reviewed the site plan and are requesting it to be amended to include the following information.

1. The property lines shall be noted on the site plan.
2. All accessory structures (sheds, decks, porches, etc.) shall be noted on the site plan along with their distances to the nearest structures and property lines.
3. All decks and/or porches attached to homes shall be noted. The distance between homes shall be from the attached decks/porches.
4. The distances of all manufactured homes to the nearest property lines.
5. The location of NYS Route 364.
6. The location of each home's driveway.
7. The width of the community's private road.

As with another pre-existing non-conforming manufactured home community, the Town would like to formulate required setbacks for your property. The requested information above is required to calculate the required setback distances. These will be agreed upon between the Town and the property owner.

Mr. Lou Giorgione, AGL Homes

February 19, 2008

Page 2

Upon receipt of the amended site plan, Dan O'Bine and I will work with the Town attorney in calculating the required setbacks and an agreement letter to be signed by both parties. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jean Chrisman  
Zoning Officer

c: Lloyd Kirnear, Town Supervisor  
Dan O'Bine, Code Enforcement Officer

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AGL-HOMES PITTS MANGT

PAGE 01/02

# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424  
(585) 394-1120  
Fax (585) 394-9476

*Established 1789*

April 10, 2008

*Certified / Return Receipt Requested*

Ms. Colleen Corey  
Advanced Living Properties  
4294 Route 5  
Calandonia, New York 14423

RE: Manufactured Home Park License  
Property @ 3260 State Route 364  
Tax Map # 98.08-1-8.100  
Zoning District: Manufactured Home Park (MH)

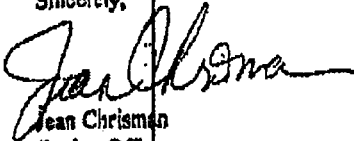
Dear Ms. Corey:

On September 28, 2005, the Canandaigua Town Board adopted Local Law 11 which revised the Town's Chapter 68, titled Manufactured Home Parks (a copy of this chapter is enclosed). Section 68-25 requires manufactured home parks existing at the time of the adoption of the local law obtain a Manufactured Home Park License from the Town of Canandaigua.

Enclosed is a copy of the Manufactured Home Park License application for your completion and submittal. Accompanied with your submission shall be a non-refundable filing fee of \$100. Once you have submitted your license application and associated documents, the Town's code enforcement officer, Dan O'Bine, and I will be conducting an on-site visit of your community. If your community is found to be in compliance with Chapter 68 and past Town Board and / or Planning Board conditions of approval, your license will be issued. If your community is found not to be in compliance, a letter stating what the deficiencies are will be mailed to you.

The Town is requesting that you complete and submit the license application on / before Friday, May 30, 2008. Once your license has been issued, you will be required to renew the license every two years (see Section 68-35). Should you have any questions, please do not hesitate to give me a call.

Sincerely,

  
Jean Christman  
Zoning Officer

Enc.

cc: Judy Carson, Town Clerk  
Lloyd Kinnear, Town Supervisor  
Dan O'Bine, Town Code Enforcement Officer

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# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424  
(585) 394-1120  
Fax (585) 394-9476

*Established 1789*

February 15, 2008

Mr. Lou Giorgione  
AGL Homes  
4305 Avon Caledonia Road  
Caledonia, New York 14423

RE: Fallbrook Manufactured Home Park  
3260 NYS Route 364  
Tax Map # 98.08-1-8.100

Dear Mr. Giorgione:

Thank you for submitting a site plan of the above reference manufactured home park. The site plan that was received on January 23, 2008 notes an interior road, home locations with their setback to the interior park road, distances between existing homes and distances to/from the maintenance building.

Dan O'Brien and I have reviewed the site plan and are requesting it to be amended to include the following information.

1. The property lines shall be noted on the site plan.
2. All accessory structures (sheds, decks, porches, etc.) shall be noted on the site plan along with their distances to the nearest structures and property lines.
3. All decks and/or porches attached to homes shall be noted. The distance between homes shall be from the attached decks/porches.
4. The distances of all manufactured homes to the nearest property lines.
5. The location of NYS Route 364.
6. The location of each home's driveway.
7. The width of the community's private road.

As with another pre-existing non-conforming manufactured home community, the Town would like to formulate required setbacks for your property. The requested information above is required to calculate the required setback distances. These will be agreed upon between the Town and the property owner.

Mr. Lou Giorgione, AGL Homes

February 19, 2008

Page 2

Upon receipt of the amended site plan, Dan O'Bine and I will work with the Town attorney in calculating the required setbacks and an agreement letter to be signed by both parties. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jean Christian  
Zoning Officer

c: Lloyd Kinnear, Town Supervisor  
Dan O'Bine, Code Enforcement Officer

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## Town of Canandaigua

5440 Route 5 & 20 West  
Canandaigua, NY 14424  
(585) 394-1120  
Fax (585) 394-9476

*Established 1789*

April 10, 2008

***Certified / Return Receipt Requested***

Ms. Colleen Corey  
Advanced Living Properties  
4294 Route 5  
Calendonia, New York 14423

RE: Manufactured Home Park License  
Property @ 3260 State Route 364  
Tax Map # 98.08-1-3.100  
Zoning District: Manufactured Home Park (MH)


Dear Ms. Corey:

On September 28, 2006, the Canandaigua Town Board adopted Local Law 11 which revised the Town's Chapter 68, titled Manufactured Home Parks (a copy of this chapter is enclosed). Section 68-25 requires manufactured home parks existing at the time of the adoption of the local law obtain a Manufactured Home Park License from the Town of Canandaigua.

Enclosed is a copy of the Manufactured Home Park License application for your completion and submittal. Accompanied with your submission shall be a non-refundable filing fee of \$100. Once you have submitted your license application and associated documents, the Town's code enforcement officer, Dan O'Bine, and I will be conducting an on-site visit of your community. If your community is found to be in compliance with Chapter 68 and past Town Board and / or Planning Board conditions of approval, your license will be issued. If your community is found not to be in compliance, a letter stating what the deficiencies are will be mailed to you.

The Town is requesting that you complete and submit the license application on / before Friday, May 30, 2008. Once your license has been issued, you will be required to renew the license every two years (see Section 68-35). Should you have any questions, please do not hesitate to give me a call.

Sincerely,

  
Jean Christman  
Zoning Officer

Enc.

cc: Judy Carson, Town Clerk  
Lloyd Kinnear, Town Supervisor  
Dan O'Bine, Town Code Enforcement Officer

**TOWN OF CANANDAIGUA  
MANUFACTURED HOME PARK LICENSE / PERMIT APPLICATION**

1. Name and Address of Property Owner: Advanced Living Properties, Inc.  
P.O. Box 159, Arvon, NY 14414  
Telephone Number of Property Owner: (585) 226-8460

2. Name and Address of Applicant if not property owner: \_\_\_\_\_  
Telephone Number of Applicant: \_\_\_\_\_

3. Name of Manufactured Home Park: Fallbrook MHP  
Park Address: 405 Lakeshore Drive  
Park Property Tax Map Number: \_\_\_\_\_ Number of Approved Lots: 42  
Name of Park Manager: Martha Shields  
Park Manager Address: 405 Lakeshore Dr., Lot 14  
Park Manager Telephone: (585) 313-5476  
Date of Original Planning Board Approval: Developed 1960

4. Applying for a NEW Manufactured Home Park License:

You must attach to this application:

- ▶ A detailed site plan in compliance with the regulations in Town Law Chapter. 68, Manufactured Home Parks; Not available
- ▶ A written statement detailing your compliance with the Town Code;
- ▶ A detailed description of your proposed park.

See Reverse

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AGLHOMES PITTS MANGT

PAGE 01/01

**5. Applying to RENEW an existing Manufactured Home Park License:**Are there any proposed changes to the existing Manufactured Home Park License? Yes No

If yes, please explain: \_\_\_\_\_

You must attach to this application:

- ▶ A copy of the most recent site plan showing the Planning Board chairperson's signature at the time the existing manufactured home park license was granted / last renewed; Not available
- ▶ A written statement regarding your compliance with all past Planning Board conditions of approval;
- ▶ Photographs of the subject property showing your compliance with all past Planning Board conditions of approval; and,
- ▶ A current copy of all applicable regulatory licenses, inspections and/or permits (i.e. State Health Department, DEC, Ontario County Sewer).

\*\*\*\*\*

The undersigned agrees as a condition to the issuance of this license that the Manufactured Home Park will be operated and maintained in accordance with all New York State Laws pertaining to Manufactured Home Parks, the Town of Canandaigua Manufactured Home Parks Law, the New York State Fire Prevention and Building Code, and the plans and specifications annexed hereto.

**LICENSE APPLICATION CANNOT BE ACCEPTED WITHOUT THE  
PROPERTY OWNER'S SIGNATURE.**

Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

License / Application Fees: (Fees based upon Fee Schedule adopted by the Town Board and amended from time to time)

Filing to Create Park Application: \$250.<sup>00</sup>License and Inspection Certificate (every two years): \$100.<sup>00</sup>

See Chapter 58 - Manufactured Home Parks

- B. **Park supervision.** The person to whom a license for a manufactured home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its common grounds, roads, facilities and equipment in good repair and in a clean and sanitary condition.
- C. **Owner's responsibility.** The park operator shall notify park occupants of all applicable provisions of this chapter and inform them of their responsibilities and any regulations issued thereunder.
- D. **Placement of units.** The park operator shall place or supervise the placement of each manufactured home on its manufactured home stand, which includes ensuring its stability by securing all tie-downs and installing all utility connections.
- E. **Change of ownership.** The Park operator shall promptly notify the town of changes of ownership or management of the park.
- F. **The park operator shall be required to develop a central dispersal point for mail delivery in compliance with the United States Post Office.**

#### Section 68 - 24 Responsibilities of Occupants.

##### *Responsibilities of manufactured home park occupants.*

- A. **Property maintenance.** The park occupant shall be responsible for the maintenance of their manufactured home, any appurtenances thereto and all yard space on the site, in a neat and sanitary condition.
- B. **Occupant responsibilities.** It shall be the responsibility of each manufactured home occupant to keep his site free of litter, rubbish, unused vehicles and equipment or parts thereof.

#### Section 68 - 25 Application Fee and Approval Process.

- A. **Application.** Where land to be used for a manufactured home park is already zoned MH Manufactured Home District, an applicant for a manufactured home park license must obtain from and file with the Town Zoning Enforcement Officer an application for a manufactured home park. A non-refundable filing fee, as determined by resolution of the Town Board and on file in the Town Clerk's Office shall be paid at the time of filing.
- B. **Rezoning.** If the land to be used for a manufactured home park is not zoned MH Manufactured Home District then a written request shall be made to the Town Board to consider a formal amendment to the Town's Official Zoning Map designating the subject property as MH. Said written request shall be made to the Town Clerk and placed upon the next available agenda of the Town Board. The established procedures for formal consideration of a rezoning request shall be followed.

C. Site plan approval. Once the land to be used for a manufactured home park has been zoned MH Manufactured Home District by the Town Board, the application for a license for a manufactured home park is referred to the Town Planning Board for site plan approval. The contents of an application for final site plan approval are set forth below:

- 1) A legal description of the property on which the proposed manufactured home park is to be located; and
- 2) A final site plan, drawn by a licensed professional, shall be submitted with the following details shown:
  - i) An overall plan of the proposed manufactured home park, including the location and number of proposed manufactured home lots with corner pins shown for each lot, the lot size dimensions, road and driveway locations, fire hydrants, water lines, sewer lines, road lights, drainage provisions including storm water compliance, a plan for a buffer zone, recreation and open space areas, present and future land contours at a maximum of five foot intervals, a foot print for each manufactured home, the location of all accessory structures on each lot, the location of common storage areas, and location of any proposed park service buildings (including mailbox locations).
  - ii) The site's unique natural resources, including but not limited to streams, creeks, areas of flood hazard, areas of steep slopes (slopes in excess of 15% or greater), established wooded areas, ridgelines and/or shorelines.
- 3) The applicant, if not the owner of the subject site, must submit a letter from the owner agreeing to and acknowledging the proposed application for a license to operate a manufactured home park on the subject site.

D. The Planning Board must approve an application for final site plan approval in order for the Town Zoning Enforcement Officer to issue a certificate of compliance. The process for site plan approval is set forth in Chapter 105 of the Town Code. Once a certificate of compliance has been issued by the Town Zoning Enforcement Officer, the Town Clerk may then issue a license to the owner of the manufactured home park to operate said facility in accordance with the provisions of this chapter.

E. No building permits may be issued for any manufactured home park until a license to operate said facility has been issued by the Town Clerk.

#### Section 68 - 26 Inspection and Enforcement; Certificate Of Compliance and Occupancy.

A. Enforcement officers designated; right of entry.

- 1) This chapter shall be enforced by the Zoning Enforcement Officer (ZEO) and the Code Enforcement Officer (CEO) of the Town of Canandaigua and the New York State Department of Health.
- 2) Said officers and their inspectors shall be authorized and have the right in the performance of duties to enter any manufactured home park and make such

July 11, 2008

Carol S. Maue, Esquire  
Chamberlain D'Amanda  
1600 Crossroads Building  
2 State Street  
Rochester, New York 14614

**RE: *Fallbrook Mobile Home Park, Town of Canandaigua***

Dear Carol:

It was a pleasure speaking with you the other day, and I look forward to working with you on this issue. I am enclosing a packet of information, mostly correspondence from me to the former Town Attorney Derek Brocklebank. I had thought there were e-mails as well, but in reviewing both my file and my computer archives, discovered I was mistaken.

As we discussed over the phone, Fallbrook is a small mobile home park located in the town that has been in existence since the 1960s. Last fall, when my client sought a building permit to replace a mobile home within the park with one of like size, kind and quality, I began conversations with Mr. Brocklebank regarding the mobile home park's non-conforming status and how we might go forward, working together, to ensure that my client's non-conforming use rights are honored while, at the same time, giving the Town a sense of comfort that the park is properly maintained for the health, safety and welfare of its residents.

We agreed that my client would prepare a community plan showing the size and location of each of the current mobile homes and the current front, side and rear setbacks. (The terms of the agreement are set forth in the letter I wrote to Mr. Brocklebank dated September 27, 2007). My client prepared and submitted the promised community plan. Almost immediately thereafter, however, Ms. Chrisman told my client that she was going to "establish setbacks" for the mobile home park. She thought seven foot setbacks would be appropriate. I immediately called Mr. Brocklebank and we discussed why "establishing setbacks" in a pre-existing, non-conforming mobile home park was not a part of our discussions or agreement. Requiring seven foot setbacks in this park would render 21 lots - nearly half of the lots in the park - unusable. Mr. Brocklebank assured me that he would review the issue with Ms. Chrisman and that we would be issued our

permits/certificate of occupancy. There were other issues regarding the setback issue with the codes office telling my client one thing, me calling Brocklebank and getting assurances that he would clear it up with Ms. Chrisman, only to have the same issues come up over and over again.

As I'm sure you are aware, newly adopted zoning requirements cannot be imposed on pre-existing, non-conforming uses. The lot sizes in this little park are what they are and imposing some arbitrary setback requirement on the lots simply because one home is being swapped out for another is a significant hardship for this business. Add to that the fact that the one lot at issue at the moment has been under contract now *twice* since last fall and my client has still not been able to get a simple building permit and certificate of occupancy for it. I'm also sure you can understand that, often, people thinking about moving into a mobile home park, do not have a lot of other options. These parks provide a form of safe, low cost suburban or rural housing.

We would very much like to get these issues resolved with the town once and for all so that my client can continue to conduct his business, but so far we have been unsuccessful. I would be happy to discuss this issue and how we can best proceed with you at your convenience. You can reach me at the number above, or on my cell phone ((315) 345-9216) at any time. Thank you for your attention to this matter.

Very truly yours,

Laurel J. Eveleigh

file

LAUREL J. EVELEIGH

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October 21, 2008

Carol S. Maue, Esquire  
Chamberlain D'Amanda  
1600 Crossroads Building  
2 State Street  
Rochester, New York 14614

**RE: Fallbrook Mobile Home Park, Town of Canandaigua**

Dear Carol:

I am writing in response to your letter of September 22, 2008 and I must admit that I am very much taken aback by the town's position. After negotiating and finalizing a resolution of the issues regarding the replacement of homes within the Fallbrook Mobile Home Park in good faith nearly a year ago with then-town attorney Derek Brocklebank, my client is now being told that we should go back to the drawing board and start all over. I am, to say the least, incredulous that the town would take advantage of the change in town attorneys to deny the existence of that agreement to the detriment of my client.

You misconstrue the correspondence between Mr. Brocklebank and me to the extent that you claim my client "is not willing to accept the town's proposal for a negotiated settlement." As I indicated in my prior correspondence, *Mr. Brocklebank and I reached a negotiated settlement* and my complaint now is that the town has failed to live up to its end of the bargain. Mr. Brocklebank and I worked closely to resolve the differences between the town and my client, avoid litigation, and give the town a "baseline" understanding of the Fallbrook Mobile Home Park in light of the newly enacted mobile home park regulations in the town. My client had an agreement with the town - to wit, that AGL would provide the town with a community plan to establish a "baseline" or "benchmark" against which to judge any future change proposals for the Fallbrook park and the town would issue approvals for a replacement home on lot 37 within the park. Lot 37 is a mobile home site within the park that has existed since the park was established in the 1960s. While the town issued the building permit, it has failed to issue a certificate of occupancy and now, more than a year later, the unit stands vacant, my client has already lost one potential tenant due to the delay and is poised to lose another and my client loses rental income on it with every passing day.

As required by the agreement, AGL provided the community plan to the town sometime late last September or early October. On October 12, 2007, Ms. Chrisman and Mr. Corey, principal for AGL, had an e-mail exchange that was somewhat troubling, inasmuch as Ms. Chrisman wrote of "establishing" required "setbacks" within this non-conforming mobile home park. This was not a part of the agreement that Mr. Brocklebank and I had negotiated, so I called him to discuss the issue. He assured me that I was correct, the town would not be establishing any required setbacks and that he would straighten it out with Ms. Chrisman and make sure the zoning office understood what it was that we had agreed to. Over the course of the next few months, I had several (not one or two, but several) conversations with Mr. Brocklebank regarding these issues because in nearly every contact my client had with Ms. Chrisman or Mr. O'Bine, they seemed not quite to understand the terms we had agreed to with the town attorney and referred repeatedly to their desire to "establish" required setbacks for this non-conforming use. Each time, Mr. Brocklebank assured me that he would handle the situation, he would re-iterate with Ms. Chrisman what we had agreed to and make clear to her that because the park was a pre-existing nonconforming use, they would not be establishing any minimum setbacks but rather, the setbacks within the park are what they are and will remain as such. At one point, after the second or third conversation in this vein, I specifically recall telling Mr. Brocklebank that, while I was confident that he and I were on the same page, I was concerned because Ms. Chrisman and Mr. O'Bine did not seem to "get it." Mr. Brocklebank again assured me that we had an agreement, that he would take care of it and that he would make sure that the zoning and codes officers fully understood what we had agreed to do, our status as a nonconforming use and that we were entitled to maintain the nonconforming use. I am sure that as an officer of the court, Mr. Brocklebank will confirm my recollection of these events if called upon to do so.

My client does not wish to litigate against the town, and it is for that very reason that we expended the time and effort to work out a resolution with Mr. Brocklebank last year. Yet, the town's actions leave my client with little other choice. The Fallbrook Mobile Home Park consists of forty-some mobile home lots or "pads" which are rented out to mobile home owners for a monthly fee or which contain mobile homes owned by the park that are rented to tenants. The park's sole source of income is from these rental fees. When the town refuses to issue a building permit for replacement of a home or a certificate of occupancy for tenancy of a home, the town has effectively seized a portion of the business's inventory. The town's refusal to issue a building permit or certificate of occupancy for Lot 37 over the last year has deprived the business of a percentage of its income. And "establishing" a seven-foot "setback" within this park as Ms. Chrisman suggested in her October 12, 2007 e-mail would render over half the lots in the park unusable, cut its income stream by fifty percent or more and likely drive the park out of business. Moreover, it is settled law in this state that the town is without power to do so.

Contrary to your letter, my client is still and has always been willing to work with the town. We have provided a baseline community plan that fixes the park in time for the purposes of evaluating change proposals. As a nonconforming use, the park is entitled to continue as long as there is no increase in the nonconformity. Accordingly, we would simply ask that the town issue building permits and certificates of occupancy in the

ordinary course of business for replacement homes that do not increase the nonconformity.

Mobile home parks represent the rural equivalent of urban low-cost housing. Many communities simply do not have sufficient affordable apartments for lower-income individuals and mobile home parks often make up the difference. It is especially important in these uncertain economic times for communities to ensure a consistent supply of affordable housing. The Fallbrook Mobile Home Park is an attractive, well-run community that supplies affordable housing in the Town of Canandaigua.

I have instructed my client to submit an application and appropriate payment for a certificate of occupancy for Lot 37 in the Fallbrook Mobile Home Park to the codes office. I expect that the certificate of occupancy will be issued in the normal course of business or will be denied within the time frames specified under applicable state law. In the interim, if you would like to discuss this matter further before our respective clients' positions become completely polarized, please call me at the number above or on my cell phone at (315) 345-9216. I am hopeful that we will still be able to resolve these issues short of litigation.

Very truly yours,

  
Laurel J. Eveleigh