

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

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In the Matter of the Application of

WHITTAKER ROAD ASSOCIATES LLC,

Petitioner-Plaintiff,

-against-

TOWN OF FALLSBURG and TOWN OF FALLSBURG
TOWN BOARD;

Respondents-Defendants.
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Index No.: 2016-2079

STIPULATION OF
SETTLEMENT

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WHEREAS, the Plaintiff, Whittaker Road Associates LLC ("Whittaker Road") commenced a hybrid Petition pursuant to Article 78 of the New York Civil Practice Law and Rules and a verified complaint against the Defendants named herein, that being the Town of Fallsburg and the Town of Fallsburg Town Board (the "Lawsuit"); and

WHEREAS, the Lawsuit, among other matters, asserts that the Defendants acted improperly when it denied the petition of Whittaker Road for a waiver from Town of Fallsburg Local Law number 3-2016 entitled "Establishing a Moratorium on Residential Development Approvals" (the "Moratorium Law") by denying the petition applicable to the development project (the "Project") being pursued by Whittaker Road (the "Variance Application"); and

WHEREAS, the parties hereto desire to settle the Lawsuit and all matters which are the subject of the Lawsuit;

NOW THEREFORE, the parties hereto stipulate and agree as follows:

1. Whittaker Road hereby withdraws the Variance Application seeking a waiver of the application of the Moratorium Law to the Project now being pursued by Whittaker Road and described in the Variance Application and in the Lawsuit.
2. Whittaker Road hereby acknowledges and agrees that the Project is subject to the Moratorium Law and that until such time as the moratorium described in the Moratorium Law has expired, Whittaker Road will be subject to the Moratorium Law.
3. Whittaker Road hereby withdraws its claim of damages against the Defendants with respect to the acts of the Defendants in connection with the enactment of the Moratorium Law, including the Defendants' denial of the Variance Application.

KALTER, KAPLAN
ZEIGER & FORMAN

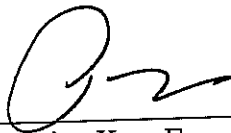
ATTORNEYS AT LAW
WOODBORNE, N.Y. 12788

4. The Defendants are now in the process of revising the Town of Fallsburg Comprehensive Plan (the "Comprehensive Plan") and expect that in addition to revising the Comprehensive Plan, that the Town will amend its current zoning regulations in accordance with the revisions to the Comprehensive Plan and in accordance with revisions that have been proposed by consultants retained by the Town. It is possible that one or more of the Zoning Law changes that will be enacted by the Town may impact the Project that Whittaker Road is pursuing. In consideration of the waivers and agreement of Whittaker Road, as provided for in this Stipulation, the Town agrees that, with respect to the Project, the Zoning and other laws to be considered by the Town in connection with its evaluation of the Project shall either be the Zoning and other laws of the Town of Fallsburg as they exist as of the date of this Stipulation, or shall be the Zoning and other laws that may be enacted by the Town Board at the time of the expiration of the Moratorium Law. Whittaker Road shall have the option to determine whether it will pursue development of the Project pursuant to the Zoning and other laws as they exist as of the date of this Stipulation, or pursuant to the zoning and other laws that exist after the expiration of the Moratorium Law.

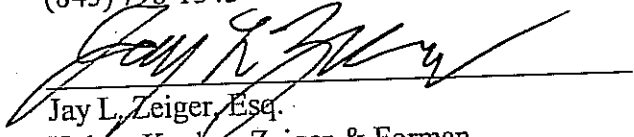
5. Except for the matters agreed upon in this Stipulation, Whittaker Road agrees to discontinue the Lawsuit, with prejudice.

6. The parties hereto agree that the Court shall retain continuing jurisdiction to enforce the terms and conditions of this Stipulation.

IN WITNESS WHEREOF, the parties hereto have entered into this Stipulation as of the 10th day of December, 2016.



Paula Elaine Kay, Esq.
Attorney for the Defendants
Office Address
548 Broadway
Monticello, NY 12701
(845) 796-1343



Jay L. Zeiger, Esq.
Kalter, Kaplan, Zeiger & Forman
Attorney for the Plaintiff
Office and P.O. Address
6166 State Route 42, P.O. Box 30
Woodbourne, NY 12788
(845) 434-4777

**KALTER, KAPLAN
ZEIGER & FORMAN**

ATTORNEYS AT LAW
WOODBOURNE, N.Y. 12788