

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

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March 20, 2024

*Via email only: attysalvati@comcast.net*

Mark J. Salvati, Esquire

Mark J. Salvati Attorney at Law

**Re: Wabanaki Campground – NH DoJ 2024166601 – Bureau Requests,  
Questions, & Comments**

Dear Attorney Salvati:

The Consumer Protection and Antitrust Bureau ("Bureau") has reviewed the "Application for Comprehensive Registration pursuant to RSA 356-A:5, I" ("Application") that you filed on behalf of Wabanaki Campground Conversion, LLC ("Applicant") to register 77 lots of the Wabanaki Campground ("Subdivision") located in Freedom, New Hampshire. As a result of such review, the Bureau has the following requests, questions, & comments:

1. Kindly provide the present estimated cost of completing all promised improvements that are yet to be completed, including a breakdown by each improvement. Per the Application, the Bureau assumes that the only not yet completed, promised improvements are the sewerage system & the electrical supply. Kindly advise if this is incorrect. From the Application, the Bureau assumes that there is no existing security ensuring completion of such not yet completed yet promised improvements. If this assumption is incorrect, kindly provide a copy (copies) of all such security. If the remaining cost of completing such promised improvements is not secured, then kindly advise how Applicant proposes to secure same. The Bureau normally expects security running to the Bureau & Association for the entire cost with a **15% upside buffer**. Depending upon details, which we are happy to discuss, the Bureau, in some circumstances, can allow posting the security subsequent to issuing a Certificate, as a condition subsequent. **Once you have had a chance to review this letter, I suggest you contact me to discuss this paragraph & any others to save time as part of your responding & the Bureau's (hopefully) final review.** If you do not get me on my office number, kindly leave a message & then try my mobile. I work remotely 2 days a week (most of the time) but the days change depending on court hearings, subpoena interviews, & in-person appointments;

2. Kindly provide a completed "Affirmation of Complete Application", CPLS001, see Jus 1310.01 (a);

3. Kindly provide a corrected "Certificate of Resolution" using the partnership form;

4. Regarding the survey plan, kindly **i)** provide the license number of the surveyor, **ii)** identify the survey methodology; **iii)** clarify why the legal description of the perimeter is crossed out; **& iv)** advise when it will be recorded;

5. The Bureau notes that the Application said that approval was pending. The Bureau assumes this pertains to Freedom Planning Board ("Planning Board") approval. If this is incorrect, then kindly clarify. If the Applicant has received approval from the Planning Board, then kindly provide same, together with the plan as approved by the Planning Board. **Nota Bene:** The Bureau will not issue a Certificate of Registration ("Cert.") until all required municipal, state, & federal approvals **i)** have been granted; **ii)** are not being appealed or contested; **& iii)** are no longer appealable or subject to contest;

6. Kindly submit an electronic copy of the survey plan after recording (this item can be done later than others depending upon Planning Board timing, *etc.*);

7. Kindly confirm that **i)** none of the "Units", as described in the "Description of proposed Wabanaki Campground Cooperative" ("Description"), have not been rented out for more than **6** months of the year to any given camper or occupant ("Occupant"); **& ii)** none of the "Hutniks", the "Cottages", the "Apartment" units, or a "Lodge" area, all as described in said Description, have been rented out for more than **6** months of the year to any given Occupant. To the extent that you cannot so confirm, please provide the details regarding length of occupancy by class for the Units, Hutniks, Cottages, Apartment units, & Lodge areas. Otherwise, the Bureau needs to consider whether RSA Chapter 356-C applies. Be advised that the Bureau **has not taken a position** regarding whether RSA Chapter 356-C applies to Applicant's proposal;

8. Kindly **either i)** explain **A)** how Applicant will be repaid the **\$25,000.00** advance mentioned in said Description; **B)** how this will be documented; **& C)** what, if any, security Applicant will be granted for such advance, including a copy thereof; **or ii)** advise where these matters are otherwise addressed in the Application;

9. Kindly **i)** confirm whether the [REDACTED] shown in the Applicant's Appendix ("App.") A, at "Initial Agreement" at Ex. C. shall be paid; **& ii)** if so, provide all details regarding **A)** when & how payment will be made; **& B)** what, if any, security each member will be granted, including a copy thereof;

10. Re App. D, kindly provide financial documentation complying with RSA 356-A:5, I(v) & Jus 1306.04, 1306.06, & 1306.08 – 1306.10, noting that Jus 1306.10 addresses the particular requirements of alternative methods of complying with the financial documentation requirement;

11. Re App. D as submitted, kindly explain **i)** the components of the [REDACTED] (rounded) in income – was it all rental income?. If so, then kindly confirm; **& ii)** what the **\$20,500** "transfer" represents;

12. Re App. E, kindly **i)** submit a title opinion **or** letter of explanation from a member of the NH bar addressing ¶18 of title policy Sch. B, Pt. 1 exceptions – in particular the

Bureau is seeking confirmation that, despite this exception, it is reasonable to assume that purchasers in the cooperative corporation will have full use to all of the Subdivision premises, the use of which is not otherwise restricted by the Subdivision documents (the Bureau wonders – without taking any position at this time – whether a quiet title action might be appropriate) ; **& ii) A)** submit a copy of the document referred to in ¶24 of said Sch. B, Pt. 1 exceptions, the DES Cease & Desist Order (“DES Ord.”); **& B)** confirm that the Subdivision premises & uses thereof conform to the provisions of said DES Ord.;

13. Re App. F, the mortgage, **i) Mort. §I, ¶1.08** appears improperly to restrict conveyance without Bank’s approval relative to the Subdivision premises which are being conveyed – this must be addressed; **ii)** the Bureau does not see the required partial release language – this must be addressed; **iii)** the bank should consent of record to the Subdivision registration with the Bureau; **& iv)** kindly provide a copy of the underlying loan agreement. Note that the Bureau does not necessarily require amendment of the recorded mortgage re items i & ii, with the Bureau typically agreeing to same being addressed *via* a letter emailed to the Bureau on Bank stationery, stating as follows: **A)** the person signing on Bank’s behalf has authority to bind Bank relative to the Mortgage; **B)** the letter is binding on the Bank even though **1)** not recorded in the applicable Registry of Deeds **& 2)** contrary to the terms of the Mortgage; **C)** the letter is being issued to the Bureau which is relying thereon in determining whether to approve the Application; **& D)** the details of whatever item(s) must be addressed;

14. The following pertain to App. G., “Use Regulations ...” (“Reg.”):

A. Kindly **i)** confirm how the “Cooperative” is being legally organized; **& ii)** provide copies of all documents thereof. The Bureau assumes that the Cooperative will be formed under RSA Chapter 301-A. If this is correct, then kindly note the statutory requirements under Chapter 301-A. Because the Bureau is unclear of how Applicant is proceeding, the Bureau has not reviewed the Application or supporting documentation in light of any statutory provisions regarding the type of entity yet to be formed. Once this is clear, then the Bureau reserves the right to review the proposal in light of the applicable statutory provisions governing the type of entity. Be advised that RSA 301-A:34 restricts the use of the term “cooperative” for new entities that are not formed under the provisions of RSA Chapter 301-A;

B. Kindly **either i)** revise the Reg. for recording in the Reg.; **or ii)** explain why the Reg. ought not be recorded – the Bureau normally expects (& typically sees) such item to be recorded. However, depending upon the entity being formed, the Bureau is willing to reconsider;

C. Re the introductory sentence “for purposes .. lodge”, kindly revise to define “Campsite” and “Unit Owners” separately. The Bureau assumes that **i)** “Campsite” includes all sites, huts, cabins, apartments, and the lodge; **& ii)** “Unit Owners” includes the owners of either a site, hut, cabin, apartment, or the lodge;

D. Re Reg. ¶1, kindly **either i)** revise to allow minors as overnight guests; **or ii)** provide the reasons supporting & legal basis for such restriction;

E. Re Reg. ¶2, kindly define “Campground”;

F. Re Reg. ¶3 in the last sentence, kindly insert “the Manager, in Manager’s reasonable discretion,” in lieu of “they”;

G. Re Reg. ¶5 in the 1<sup>st</sup> sentence, kindly insert “reasonably” prior to “considered”;

- H. Re Reg. ¶8 in the 1<sup>st</sup> sentence, kindly insert “unreasonably” prior to “disturb”;
- I. Re Reg. ¶10 in the 2<sup>nd</sup> sentence, kindly revise regarding “evicted immediately”. The Bureau does not think that once the campground becomes a cooperative there is an ability to cause owners (as opposed to guests) to vacate immediately. Kindly advise what legal authority grants authority to order a guests immediately to vacate;
- J. Re Reg. ¶11, query whether the restriction should include restrictions on pellet guns, bb guns, paint guns, *etc.*;
- K. Re Reg. ¶12 in the 2<sup>nd</sup> sentence, kindly revise to describe what size for sale signs & number thereof are allowed without prior Manager approval. The Bureau recommends consideration of the provisions of RSA 205-A:2, II as a reference of a reasonable standard. The Bureau is willing to consider a 1 sign limitation if supplied with sufficient facts;
- L. Re Reg. ¶¶13 & 14, kindly clarify the interplay of “swimming hours will be posted” in ¶13 versus the set hours of ¶14. The Bureau has no *per se* objection to swimming hours being more restricted than beach access hours;
- M. Re ¶15 in the 2<sup>nd</sup> sentence, the Bureau will not require revision; however, it is not clear to the Bureau whether this is enforceable;
- N. Re Reg. ¶16, kindly confirm that there is adequate cellular or internet service at all sites;
- O. Re Reg. ¶18 in the 1<sup>st</sup> sentence, kindly **i)** insert “Cooperative” in place of “Condominium” assuming that the intent is for the ultimate formation to be a RSA Chapter 301-A cooperative; **& ii)** confirm the desire to capitalize the “t” in “The; If the intent is to form something other than a cooperative, then the Bureau needs to consider whether the Application as filed is the appropriate application;
- P. Re Reg. ¶18 in the last sentence, query whether reference to the “Freedom Building Code” or “applicable code” is preferable;
- Q. Re Reg. ¶19 in the last sentence, kindly **i)** either define “Association” or use a different word; **ii)** confirm the desire to use the phrase “Declaration ... Act”; **& iii)** if such phrase is being used, submit the Declaration & By-Laws;
- R. Re Reg. ¶20, kindly clarify the use of “The Cooperative” as opposed to “Campground”;
- S. Re Reg. ¶21 kindly **i)** in the 1<sup>st</sup> & 2<sup>nd</sup> sentences, kindly provide the factual reasons & legal basis for excluding **A)** tent trailers **& B)** tents as the primary use; **& ii)** in the 3<sup>rd</sup> sentence, kindly consider deleting the phrase “for minor children/grandchildren”;
- T. Re Reg. ¶22 at A, kindly **i)** define “couple”; **& ii)** provide the factual reasons & legal basis for both the restrictions on both who can own & method of ownership. The Bureau does not understand why the purposes would be defeated by relatives or friends jointly owned a Campsite or why a Campsite could not be owned by a trust, partnership, limited partnership, limited liability company, or corporation. The Bureau has no objection to limiting the use to particular family or group for purposes of cohesiveness & sense of community;
- U. Re Reg. ¶22 at B, query whether fireplace location & fireplace foundation should be approved by the Manager;

V. Re Reg. ¶22 at C, kindly define “sideline”;

W. Re Reg. ¶22 at E in the 2<sup>nd</sup> sentence, kindly see ¶14, sub¶K *supra*;

X. Re Reg. ¶22 at G kindly **i)** in the 1<sup>st</sup> sentence, **A)** consider consistency of terms; **& B)** whether Manager & Association (or Cooperative) should be relieved from damage liability even when the Campground is open; **& ii)** in the 2<sup>nd</sup> sentence, **A)** kindly revise to “Unit Owners”; **& B)** query whether liability insurance ought to be required by Unit Owners – perhaps with Manager & Cooperative (or Association) as an additional insured; **&** perhaps with other no claims provisions against Manager, Cooperative (or Association) or other Unit Owners;

Y. Re Reg. ¶22 at H, kindly confirm that the numbers are consistent with other provisions;

Z. Re Reg. ¶22 at N, kindly **i)** in the 1<sup>st</sup> sentence clarify whether a different style replacement roof would be allowed; **& ii)** in the 2<sup>nd</sup> sentence define “Board”;

AA. Re Reg. ¶22 at O in the 1<sup>st</sup> sentence, kindly either define “offseason” or refer to when the Campground is closed;

BB. Re Reg. ¶22 at P & Q, kindly clarify who approves the skirting;

CC. Re Reg. ¶25, kindly **i)** define “Declarant”; **& ii)** confirm for what period the Declarant shall have such right – with the Bureau considering anything longer than the earlier of 2 years from recording or conveyance of more than 75% of the units to third parties to be unreasonable;

DD. Re Reg. ¶26, kindly revise to make the award of reasonable fees, *etc.* available to the prevailing party;

EE. Re Reg. ¶27, kindly revise so that the terminology is consistent;

FF. Re Reg. ¶28, kindly **i)** clarify whether “camping season” means something different from “when the Campground is open”; **& ii)** kindly confirm the dates listed; **&**

GG. Re Reg. execution, kindly consider who is adopting the Reg. **&** whether the Reg. should be acknowledged;

15. Kindly provide a legal description of the Subdivision premises;

16. The following pertain to App. H, the bylaws (“BL”):

A. Kindly **either i)** revise the BL for recording in the Reg.; **or ii)** explain why the BL ought not be recorded – the Bureau normally expects (**&** typically sees) such item to be recorded. However, depending upon the entity being formed, the Bureau is willing to reconsider;

B. Kindly confirm the name of the Cooperative in the BL heading **&** in BL §1-100;

C. In all instances, kindly **either i)** use a small letter “t” in “the Cooperative”; **or ii)** **A)** define the Campground as “The Cooperative” **& B)** always use “The Cooperative”;

D. Re BL §2-100 in the 1<sup>st</sup> sentence, kindly **either i)** delete “and uses”; **or ii)** provide the factual **&** legal basis for inclusion of such phrase;

E. Re BL §2-100 in the last sentence, kindly revise to provide that each Unit shall have one vote to be voted by the Unit Owner, making provision for when there is more than 1 owner;

F. Re BL §2-200, kindly **i)** delete the 2<sup>nd</sup> “Transfer of Membership”; **ii)** in the 1<sup>st</sup> sentence, delete “membership interest or”; **& iii)** in the last sentence please provide some details re process & timing of such approval, if not otherwise addressed in the BL;

G. Re BL §2-300 the 1<sup>st</sup> sentence, kindly insert “Unit Owners” after the word “Cooperative” (1<sup>st</sup> time);

H. Re BL §2-400, kindly insert “Unit” prior to the word “Owners”;

I. Re BL §2-600 in the 1<sup>st</sup> sentence, kindly revise to address proxy voting as it impacts the quorum requirement in light of the phrase “presence in person”;

J. Re BL §2-800 kindly revise to allow payments by bank or certified check up to commencement of the meeting;

K. Re BL §3-100 in the last sentence, kindly revise to provide as follows: “At least two (2) board members shall be owners of one or more of the following Unit types: Lodge, Apartment, or Hut;

L. Re BL §3-200, kindly clarify “majority of cumulate vote”;

M. Re BL §3-400, kindly **i)** revise the reference to “5-300”; **& ii)** kindly clarify how the staggered terms will be implemented for the first elections, see BL §3-100;

N. Re BL §3-500, kindly revise to comply with RSA 356-B:37-c (even though being set up as a Cooperative) regarding **i)** notice to both Board members & Unit Owners; **& ii)** at least quarterly meetings

O. Re BL §4-102, kindly revise – query whether “assessed” should be inserted prior to the word “against”;

P. Re BL §4-114, kindly clarify whether “Campsite” includes every type of Unit;

Q. Re BL §5-200 in the 2<sup>nd</sup> sentence, kindly insert “a” in place of “an” prior to the word “Cooperative”;

R. Re BL §5-300 in the last sentence, kindly insert “or” in place of “of” after the word “Directors”;

S. Re BL §5-404, kindly **either i)** include a provision in the BL that the Association will comply with all of the provisions of RSA 356-A:9-b or RSA 356-B:58, as applicable, including replying within 10 days; **or ii)** refer to BL Art. 12. For purposes of easing future administration by the Association, the Bureau suggests listing the actual provisions rather than merely referring to the statute;

T. Re BL §5-500, kindly revise to limit a transferee’s liability for prior obligations by the amount disclosed in the statement provided per BL §5-404;

U. Re BL §6-400 in the 1<sup>st</sup> sentence, kindly delete the word “Owner”;

V. Re BL §6-500 in the 2<sup>nd</sup> sentence, kindly **i)** insert “reasonable” prior to the word “attorney’s”; **& ii) either A)** state the interest rate; **or B)** how it shall be set – in either case it being limited to a reasonable rate – the Bureau recommends consideration of the delinquent real estate tax rate;

W. Re BL §7-100, **i)** query whether the Cooperative’s election of remedies ought to include any or all of the listed remedies. As written, the listed elections appear to be in the disjunctive; **ii)** consider including a provision for the award of reasonable attorney’s

fees & costs of the successful party; & iii) in the second paragraph, consider inserting "cumulative" prior to the word "remedies"; &

X. Re BL §12-100, kindly include all of the provisions of RSA 356-A:9-b or RSA 356-B:58, as applicable;

17. Re App. I, kindly clarify i) for the table showing 41 sites: **A)** the table headings; & **B)** what the table discloses; & ii) for table showing 40 sites: what the table discloses;

18. Re App. M, the Wabanaki Campground Condominium plans, kindly i) on Sheet 2 of 2, advise what the 2 "X" southwesterly of the trash disposal represent; & ii) clarify whether the numbered lots have courses;

19. The following pertain to App. N, the "Purchase And Sale Agreement" ("P&S"):

A. Kindly enlarge to at least the equivalent of 12 point sized type;

B. Re P&S ¶2, kindly i) insert a plan reference; & ii) clarify whether **A)** a Site is being sold; **or B)** an interest in the Cooperative, which includes the exclusive right to occupy the referenced Site;

C. Re P&S ¶3, kindly define "Premises", either here or previously;

D. Re P&S ¶6, kindly **either i)** complete; **or ii)** mark "not applicable";

E. Re P&S ¶8, kindly state the date by which the P&S, at Buyer's sole election, becomes void (absent written agreement of both Parties to extend), with Buyer to be refunded the entire deposit if Seller fails to deliver the closing documents;

F. Re P&S ¶9, kindly insert "occupancy" in place of "occupant";

G. Re P&S ¶10, kindly i) change the escrow agent who must be independent of Applicant; ii) include the escrow agent's address & telephone number; & iii) the 5 day rescission right must be spelled out either per the statute or regulations;

H. Re P&S ¶16, kindly **either i)** complete; **or ii)** mark "not applicable";

I. Re P&S ¶18, kindly **either i)** complete; **or ii)** mark "not applicable";

J. Re P&S ¶21, to the extent that this is being conveyed as a condominium, then the statutory warranty of RSA 356-B:41, II must be included;

K. Re P&S ¶22, kindly insert "New Hampshire" in place of "Massachusetts"; &

L. At some place provide that the conveyance shall both be together with & subject to all applicable documents, identifying same;

20. Re Att. Q, kindly provide the same information requested in ¶17 *supra*;

21. Kindly provide the proposed conveyance documents, warranty deed, bill of sale, or otherwise;

22. Kindly provide a description of how & by whom maintenance & repairs will be completed, see RSA 356-A:5, I (o); &

23. Kindly provide a proposed public offering statement as App. S, see RSA 356-A:6 & Jus 1307.01;

Thank you for your attention to these matters.

Mark J. Salvati, Esquire  
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March 20, 2024

In the interest of expediting the Bureau's processing of the Application, as well as the other applications currently pending at the Bureau, we request the following:

A. Respond to the items identified in this letter of deficiency in one, rather than multiple, submissions – unless otherwise stated above;

B. Redline or highlight all amendments to distinguish them from the original submission; & include a "clean" version of the revised documents as well. If you must amend other documentation not referenced or identified in the letter, please also specify the nature of the amendment; and redline or highlight same to distinguish it from the original submission as well;

C. Kindly include the NH DOJ File # on **all** written or electronic communications; &

D. If replying electronically, which we prefer, kindly email both Christine Rioux at Christine.L.Rioux@doj.nh.gov and me (see email address below).

The Bureau appreciates your anticipated cooperation.

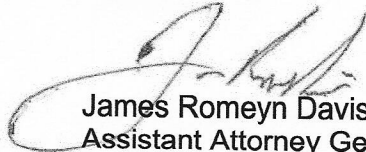
Kindly be advised that I will be away from the Bureau on a Camino Pilgrimage commencing close of business on Friday, 04/05/2024 & returning – assuming the flights are on time – on Friday, 04/19/2024.

With the above in mind, kindly submit your response by **04/03/2024**. If you need more time, just let us know *via* email. The Bureau will agree with your request so long as the Bureau also has an extension – taking into account my time away from the Bureau mentioned in the preceding paragraph.

The Bureau will need until **04/30/2024** to reply to your response; however, if possible we will attempt to get to it prior to my leaving on 04/05/2024 at the end of the day.

Because of the date of this letter & the reasonable time both of us will require to get this done, we need to extend the final date by which the Bureau approves or denies the Application. I suggest **05/10/2024** in the event we do not get everything squared away prior to my time away. **Kindly advise *via* email if you agree to all of these dates, your response deadline, the Bureau's reply deadline, & final approval or denial.**

Sincerely,



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