

VIRGINIA:

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

DONALD SANTOS,)
)
 Appellant,)
)
 v.)
)
 VIRGINIA DEPARTMENT OF HEALTH,)
)
 Appellee.)

ORDER

This matter comes before the Sewage Handling and Disposal Appeal Review Board (the "Board") pursuant to Virginia Code § 32.1-164.1:01 and § 2.2-4000 et seq. Based upon the entirety of the record of this matter, including documents, presentation, oral testimony, argument, other evidence, and authorities offered by the parties at the February 20, 2008 hearing, the Board finds as follows:

FINDINGS OF FACT

1. This case is an administrative appeal of the decision of the Virginia Department of Health ("Department") to deny an indemnification award, pursuant to Virginia Code § 32.1-164.1:01, to Donald Santos.
2. Donald Santos is the owner ("Owner") of Lot C, 5 acres, Tax Map # 122-12C3, located in Albemarle County, Virginia ("Property").

3. An onsite sewage disposal system ("System") was installed on the Property in 2004 with a valid permit. Problems existed with the System, and Owner modified the System without a valid permit.

4. The Department's Sewage Handling and Disposal Regulations, specifically 12 VAC 5-610-240, require a valid permit for any modification to a sewage disposal system.

5. Pursuant to Virginia Code § 32.1-164.1:01, a property owner must have a valid permit before he may receive indemnification for a sewage system failure.

CONCLUSIONS OF LAW

6. The Board is authorized to determine whether a decision of the State Health Commissioner to refuse an application for indemnification from the Fund complies with the requirements of Va. Code § 32.1-164.1:01.

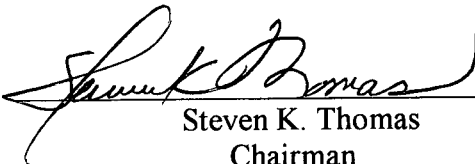
7. The Board of Health also regulates the use and disbursement of monies in the Fund pursuant to Va. Code § 32.1-164.1:01.

8. Because the Owner did not have a valid permit prior to making modifications to the System, he is ineligible for monies from the fund.

WHEREFORE, for the foregoing reasons, the Board hereby *upholds* the decision of the Department of Health to *deny* any indemnification award to Donald Santos.

If the Appellant wishes to appeal this ORDER, he may do so pursuant to Va. Code § 2.2-4000 et seq. and the Rules of the Supreme Court of Virginia by: (1) filing a Notice of Appeal with the Secretary of the Board within thirty (30) days of service

of this ORDER as required by Rule 2A:2; and (2) filing a Petition for Appeal in the Circuit Court within (30) days of filing the Notice of Appeal in accordance with Rule 2A:4 of the Rules of the Supreme Court of Virginia.



Steven K. Thomas
Chairman

Dated: March 12, 2008