

2. The Paolinellis are and were at all times pertinent to this matter the owners of Lot 18 Waterford Glen Subdivision located in Loudon County, Virginia (the "Property").

3. On April 23, 2003 Loudoun County Health Department ("LCHD") issued a sewage system construction permit for the Property. The permit was revised in October 2003.

4. On December 17, 2003, an environmental health specialist inspected and approved the installation of a sewage system for the revised permit at the Property.

5. On May 20, 2007, the Paolinellis notified the LCHD that the sewage system had failed, and they applied for indemnification.

6. The evidence indicated that the sewage system failed within three (3) years of its permit.


CONCLUSIONS OF LAW

7. The Board is authorized to determine whether a decision of the State Health Commissioner to refuse payment from the indemnification fund complies with the requirements contained in Va. Code § 32.1-164.1:01.

8. Because there was no evidence of negligence on the part of the Department in permitting the Paolinellis' sewage system and because both the first and revised permits were granted pursuant to the regulations, the Board denies Owners' request for indemnification.

WHEREFORE, for the foregoing reasons, the Board hereby *upholds* the decision of the State Health Commissioner to *deny* any indemnification award to Laura and Stephano Paolinelli.

If the Appellants wish to appeal this ORDER, they 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, 2009