

VIRGINIA:

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

BRUCE SANDERS, )  
 )  
 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 § 32.1-166.6 and § 2.2-4000 et seq. and 12 VAC 5-610-200. 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 October 15, 2008 hearing, the Board finds as follows:

**FINDINGS OF FACT**

1. Pursuant to 12 VAC 5-610-200, this case is an administrative appeal of the December 12, 2007 decision of the Virginia Department of Health ("Department") to deny the request of Bruce Sanders ("Appellant") for a sewage disposal system certification letter.

2. Appellant was represented at the October 15, 2008 hearing by Bevin R. Alexander, Esquire. Daniel P. Price presented the case on behalf of the Department, and counsel for the Department, Karri B. Atwood, Assistant Attorney General, was present.

3. Appellant is the owner of property in Lancaster County, tax parcel 33-252 A and B ("Property").

4. Appellant testified that his development proposal includes building several residences, a pool and pool house, a restaurant and a marina on the Property. On June 28, 2007, Joel Pinnix, design engineer for the Appellant, submitted a request for a certification letter for a trench-design sewage disposal system on the Property to the Lancaster County Health Department.

5. Appellant concedes that the proposed trench-design sewage disposal system for the Property does not comply with the Department's Sewage Handling and Disposal Regulations ("Regulations"), specifically 12 VAC 5-610-950, but states that the Department's own policy guidance document, GMP #101, is controlling and that the proposed trench-design sewage system complies with GMP #101.

6. Appellant concedes that the trench-design sewage system proposed for the Property is for a mass drainfield and states that GMP #101 controls the sizing of mass drainfields.

7. David Fridley, environmental health manager for the Commonwealth's Three Rivers District, including Lancaster County, testified that the Regulations, specifically 12 VAC 5-610-950, supersede policy guidance documents, including GMP #101, and that the proposed trench-design sewage disposal system for a mass drainfield on the Property is an insufficient area for wastewater disposal.

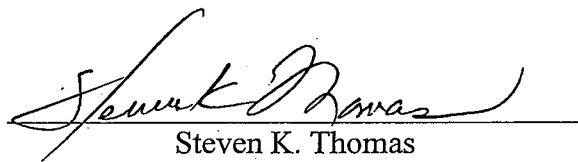
**CONCLUSIONS OF LAW**

8. The Department's Sewage Handling and Disposal Regulations at 12 VAC 5-610-20 et seq. govern the design of the proposed sewage disposal area for the Property.

9. The trench-design sewage disposal system proposed by Appellant for the Property does not meet the Regulations' minimum sizing requirements for wastewater disposal.

**WHEREFORE**, for the foregoing reasons, the Board hereby upholds the decision of the Department of Health to deny the request of Bruce Sanders for a sewage system certification letter.

**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.**

  
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Steven K. Thomas  
Chairman

Dated: November 5, 2008