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November 14, 2024

VIA EMAIL & FEDERAL EXPRESS

Chair John Parisi and
Members of the Zoning Board of Appeals
Town of Washington
10 Reservoir Dr.
Millbrook, New York 12545

Supervisor Ciferri and
Members of the Town Board
Town of Washington
10 Reservoir Drive
Millbrook, NY 12545

***RE: Solar Installation Appeal – Cease and Desist / Litigation Hold
Property: 749 Stanford Rd., Town of Washington
Tax Map No. 135889-6666-00-727971-0000***

Dear Members of the Zoning Board of Appeals and Town Board:

Our office has been retained by Lisa Biase and Lou Casciano (the “Appellants”), the owners of property located at 5515 Route 82 in the Town of Washington. On August 12, 2024, the Appellants realized that a large-scale solar field was being constructed immediately across from their property on lands known as 749 Stanford Road in the Town of Washington (SBL 135889-6666-00-727971-0000) (the “Arcadia Fields”) without any notice or the ability to participate in any review process. After further review, it was discovered that this solar installation is completely in violation of the Town’s Solar Law. As such, the Appellants filed an appeal to the Town of Washington Zoning Board of Appeals (“ZBA”) August 16, 2024 (the “Appeal”). In the last 3-months the ZBA has completely ignored the Appeal and refused to place the matter on a ZBA agenda.

Even more egregious, the Town has failed to comply with New York's Freedom of Information Law ("FOIL") by effectively denying the Appellants August 16, 2024 FOIL request and the subsequent FOIL Appeal made to the Town Board on October 29, 2024. The only response obtained by the Town was via email from the Building Inspector on October 29, 2024, which stated "I have the files at the Town Hall to view at your convenience. I will also have a determination letter available to view." My office informed the Building Inspector and the Town's Record Officer that a formal response to our FOIL Appeal was required under law. Further, to date, we have not received this alleged "determination" from the Building Inspector, further prejudicing the Appellants and contradictory to the mandates under New York Town Law related to ZBA appeals.

The Town's failure to place the matter on a ZBA agenda and failing to comply with the New York's Freedom of Information Law has permitted the above-mentioned solar development to proceed at rapid pace, further inflicting harm on my client's property rights. As such, the Appellants have no choice but to proceed with litigation against the Town to immediately stop the installation of these destructive solar panels. ***This letter shall serve as notice to the Town to preserve all correspondence, emails, text messages, electronic correspondences, and other documents pertaining to this matter, as such documents will be the subject of pending litigation.***

Since the ZBA Appeal was submitted, additional violations of the Town's Solar Law have occurred. The owner of Arcadia Fields is quickly destroying all vegetation in the vicinity of the solar installation making the aesthetic impacts to my client worse and decreasing their property value tremendously. It is hard to imagine that on a 400-acre property such solar panels could not have been constructed elsewhere on the Arcadia Fields property in compliance with the Zoning Code.

As depicted in the enclosed pictures, recently, the owner of Arcadia Fields has completed the following: (1) dug trenches for electrical lines, (2) installed a platform type structure, (3) demolished existing vegetation with heavy machinery, and (4) installed a new utility pole and cleared brush from their gate, which is directly opposite the Appellants driveway. In addition to the violations of the Solar Law noted in the ZBA Appeal, these latest actions also violate the Solar Law. For instance, per the Town of Washington Solar Law, "[n]o Solar Energy System shall be permitted if such installation would require the installation of a new above-ground power line, power pole or an electrical substation. Town of Washington Solar Law § (5)(H). Clearly that has been violated. In addition, there is significant glare from the solar panels that is affecting the Appellant's enjoyment of their home and property in violation of Town of Washington Solar Law § (5)(H). It is now obvious that the solar panels are inconsistent with the Town's Solar Law and must be removed. *See Parkview Assocs. v. City of New York*, 71 N.Y.2d 274 (1988) (holding that the City was not estopped from revoking that portion of building permit which violated long-standing zoning limits, though property owner had already engaged in substantial construction in reliance thereon.)

As stated in the ZBA Appeal, there is no way that the solar installations can be completely buffered from the adjacent right-of-way and the neighboring homes (the Appellants property) via landscaping. Further, required setbacks for the installation are inconsistent with the Solar Law. As such, the solar installation must be moved immediately. *Id.*

If the requested documents via the FOIL request and above noted FOIL Appeal are not provided to the Appellants by close of business on Friday November 15, 2024, the Appellants will proceed with litigation immediately. Further, if the ZBA does not confirm that this matter will be placed on the next meeting agenda for review by close of business on Friday November 15, 2024, the Appellant will proceed with litigation. Any such litigation will be seeking injunctive relief to preserve the status quo and to rectify the unlawful development that has been permitted. We remind the Town that, per New York FOIL, any litigation against the Town for not disclosing public documents will include attorney's fees from the Town on behalf of my clients.

It is apparent that the Town of Washington is unwilling to cooperate with the requests of the Appellants given the 3-month delay. This leads the Appellants to believe that there are backroom deals being made by the owner of Arcadia Fields and the Town. The Appellants are committed to ensuring that their property rights and value are not destroyed by this unlawfully permitted solar installation.

The above is submitted without prejudice to any potential claims against the Town of Washington. To the extent the Town has any questions, please reach out immediately at 518-487-7612 or cgottlieb@woh.com.

Sincerely,

/s/ *Charles J. Gottlieb*

Charles J. Gottlieb

Enclosures

cc: Joseph P. Eriole, Esq. DelBello Donnellan Weingarten Wise & Wiederkehr LLP (*via email*)
Kyle Barnett, Esq. Van DeWater & Van DeWater (*via email*)
Jonathan Ialongo, Building Inspector & Zoning Administrator (*via email*)
Lisa Biase, Esq. (*via email*)
Lou Casciano (*via email*)









