



Message

Mon, Aug 22, 2016 1:17 PM

From: "Gregg J. Corbo" <GCorbo@k-plaw.com>
To: **Chris Kluchman**
Cc: "aps@sally-fitch.com" <aps@sally-fitch.com> jross@westfordma.gov
 John Giorgio <JGiorgio@k-plaw.com>

Subject: RE: Retained Right question
Attachments: Attach0.html / Uploaded File (18K)

Dear Chris:

In response to the inquiry below, it is my opinion that the retained rights section of the APR may be amended in the manner set forth in the agreement between the Town and the property owner. I have previously opined that the Board of Selectmen has the authority to authorize an amendment to the APR. In this regard, the Board has broad discretion in authorizing the amendment in any way that it deems appropriate to achieve its goal of increasing the overall agricultural use of the property by permitting part of it to be used for restaurant purposes. In my opinion, adding the proposed restaurant use to the Retained Rights section is a reasonable way of accomplishing that goal. It is my further opinion that other sections of the APR which relate to Prohibit Uses and Uses Which Require Prior Written Approval do not apply to uses described in the Retained Rights section, including uses that may be added to that section through amendment.

Please do not hesitate to contact me if you have any questions in this regard.

Very truly yours,

Gregg J. Corbo

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From: Chris Kluchman [mailto:ckluchman@westfordma.gov]
Sent: Thursday, August 18, 2016 4:50 PM
To: Gregg J. Corbo
Cc: aps@sally-fitch.com; Jodi Ross
Subject: Fwd: Retained Right question

Gregg - Thank you for your prompt response to my last Drew Gardens Task Force (DGTF) inquiry about specific APR language related to agricultural income. Please see the question below from a member of the DGTF. TF Chair Andrea Peraner Sweet asked me to forward it to you. The TF has been looking closely at APR 3 and the "Retained Rights" section and one member suggested the questions highlighted below.

The TF next meets on Thursday 8/25/16. Please copy Andrea on your response, as will be on vacation next week. I am available to discuss tomorrow if you have questions.

Thank you, Chris K.

Chris Kluchman, FAICP
Director of Land Use Management
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----- Original Message -----

Message Wed, Aug 17, 2016 10:16 PM

From: Bob Boonstra
To: Andrea Peraner-Sweet
Cc: Chris Kluchman
Subject: Retained Right question

Andrea,

If you submit a question to Town Counsel RE Retained Rights, I offer the following wording for your consideration:

"Is it legally permissible and appropriate to add a new Retained Right to an APR that was not present when the APR was executed?"

"If a restaurant were added to APR 3 as a Retained Right, does that new Retained Right supercede and bypass all of the APR language in Prohibited Uses, Activities that Require Written Approval, and Approval Process for Permitted Activities?"

-- Bob

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