

STATE OF NEW YORK
SUPREME COURT : COUNTY OF DUTCHESS
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DUTCHESS COMMUNITY COLLEGE,

Petitioner, STIPULATION

- against -

Index No.: 2009/10210
Action No. 1

ZONING BOARD OF APPEALS OF THE TOWN OF
POUGHKEEPSIE, STATE OF NEW YORK,

Respondent.

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TOWN OF POUGHKEEPSIE, NEW YORK, and
TOWN OF POUGHKEEPSIE PLANNING BOARD,

Petitioners,

Index No.: 2009/9950
Action No. 2

-against-

ALEXANDER B. GRANNIS, AS COMMISSIONER OF
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, DUTCHESS COMMUNITY COLLEGE,
DUTCHESS COMMUNITY COLLEGE ASSOCIATION,
INC., and DUTCHESS COUNTY,

JUDGE ASSIGNED TO CASES:
HON. CHARLES D. WOOD, JSC

Respondents.

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WHEREAS, Action No. 1 has heretofore been commenced and is
now pending in the Supreme Court, Dutchess County before Hon.
Charles D. Wood, J.S.C.; and

WHEREAS, Action No. 2 has heretofore been commenced in
Albany County and has been transferred to Dutchess County and is
now pending in the Supreme Court, Dutchess County before Hon.
Charles D. Wood, J.S.C.; and

WHEREAS, the parties are desirous of settling and
discontinuing the two actions as more fully set forth in this
Stipulation.

NOW, THEREFORE, it is stipulated and agreed as follows:

1. Action No. 1 and Action No. 2 are settled and discontinued, with prejudice, without costs, and without disbursements, as to any party against any other party, on the terms set forth in this Stipulation.

2. Dutchess Community College shall serve as Lead Agency for environmental review of the proposed dormitory project which is the subject of Actions No. 1 and No. 2.

3. Dutchess Community College shall appear before the Planning Board of the Town of Poughkeepsie promptly upon the execution and so ordering of this Stipulation to present its plans for development of the dormitory project to the Planning Board of the Town of Poughkeepsie on an informal basis. Dutchess Community College shall make its consulting professionals available to the Planning Board of the Town of Poughkeepsie to provide information about the proposed dormitory project to the Town of Poughkeepsie Planning Board and its consultants on an informal basis. Dutchess Community College shall receive and consider in good faith the input received by it from the Town of Poughkeepsie Planning Board and the Town of Poughkeepsie Planning Board's consultants. In addition, Dutchess Community College shall again appear before the Planning Board at such times as either there are substantial changes to the plans initially presented to the Planning Board and/or at such time as there are engineered drawings. Such subsequent appearances shall be on the same terms, to wit, informal appearances with a good faith

obligation to consider input received from the Planning Board and the Planning Board's consultants.

4. The dormitory project shall not be subject to the Town of Poughkeepsie land use jurisdiction.

5. This Stipulation is entered into for settlement purposes to avoid the time, delay and expense of further litigation. There is no acknowledgment, express or implied, by any party to this Stipulation concerning the merits of the underlying disputes.

6. All parties agree that the settlement and discontinuance of Actions No. 1 and No. 2 shall have no precedential value in the event of any future project undertaken by or on behalf of Dutchess Community College within the Town of Poughkeepsie including, without limiting the generality of this statement, no precedential value concerning the proper designation of a Lead Agency for environmental review and the issue of Town land use jurisdiction.

7. All parties further agree that the underlying determinations by Respondent Alex B. Grannis as Commissioner of New York State Department of Environmental Conservation concerning lead agency and by Zoning Board of Appeals of the Town of Poughkeepsie concerning land use jurisdiction shall have no precedential value in the event of any future project undertaken by or on behalf of Dutchess Community College within the Town of Poughkeepsie.

8. Nothing in paragraphs 6 and 7 above shall preclude New York State Department of Environmental Conservation from citing its lead agency decision at issue in Action No.2 when resolving future lead agency disputes that may arise between or among entirely different parties.

9. The parties represent to each other and to the Court that the execution of this Stipulation has been duly authorized by each party.

10. The execution of this Stipulation constitutes consent by each party to the execution of this Stipulation by Hon. Charles D. Wood, J.S.C. for the purpose of "so ordering" the content of this Stipulation.

DUTCHESS COMMUNITY COLLEGE
(Petitioner in Action No.1 and
Respondent in Action No.2) and
DUTCHESS COMMUNITY COLLEGE ASSOCIATION
(Respondent in Action No. 2)

Dated: May __, 2010 By: Daniel A. Spitzer, Esq.
HODGSON RUSS LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040

ZONING BOARD OF APPEALS OF THE
TOWN OF POUGHKEEPSIE,
Respondent (in Action No.1)

Dated: May __, 2010

By: Rebecca A. Valk, Esq.
VAN DE WATER & VAN DE WATER
85 Civic Center Plaza, Suite 101
P.O. Box 112
Poughkeepsie, New York 12602

TOWN OF POUGHKEEPSIE, NEW YORK

and TOWN OF POUGHKEEPSIE
PLANNING BOARD (Petitioner in Action
No.2)

Dated: May __, 2010

By: Richard I. Cantor, Esq., counsel
TEAHAN AND CONSTANTINO
2780 South Road, P.O. Box 1969
Poughkeepsie, New York 12601
(845) 452-1834

ALEXANDER B. GRANNIS, NEW YORK
STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION (Respondent in Action No.2)

Dated: May __, 2010

By: Lawrence A. Rappoport, Of Counsel
Andrew M. Cuomo, Attorney General
New York State Department of Law
The Capitol
Albany, New York 12224

DUTCHESS COUNTY (Respondent in
Action No. 2)

Dated: May __, 2010

By: Keith Byron, Senior Assistant
County Attorney
Dutchess County Department of Law
22 Market Street
Poughkeepsie, New York 12601

SO ORDERED this __ day of May, 2010 at Poughkeepsie, New
York.

E N T E R

Hon. CHARLES D. WOOD, J.S.C.

4/21/10, 5/4/10, 5/12/10