

# Exhibit F

# Press-Republican

May 6, 2011

## State, Lewis Farm agree on repayment in APA case

KIM SMITH DEDAM  
Press-Republican

RAY BROOK — The state's attorney general and Lewis Family Farm have agreed to a repayment settlement in a case the farmers won against the Adirondack Park Agency.

The legal clash arose nearly six years ago over farm-worker housing that Salim B. "Sandy" and Barbara Lewis built on their 1,100-acre organic cattle and crop farm in Essex.

APA asserted jurisdiction and opened enforcement proceedings against the farm, but lost when the Lewises challenged the agency's action in state courts.

### STATE OFFER

The state's reimbursement offer to the Lewis Farm amounts to \$71,690.28 for court-related costs — a figure ordered 18 months ago by Acting Essex County Supreme Court Justice Richard B. Meyer.

Lewis farmers appealed some aspects of the award, and the matter has moved through several hearings since.

The Attorney General's Office had not issued paperwork Thursday confirming the settlement agreement, and a call to its press officer was not returned.

The APA had no comment.

### OBJECTED TO CLAUSE

But Mr. Lewis said attorneys initially sought to reimburse the farm only if Meyer — as a third party to the deal — agreed to remove the November 2009 repayment order from court records.

Mr. Lewis said that when he went to the hearing in Albany last week he did not expect any clause in an accord brokered, in part, through state lawmakers.

"My attorney John J. Privitera suggested we take the settlement offer, but it came with a catch — that we would have to go before Judge Meyer, in agreement with the state, and ask him to expunge the record of all settlement negotiations since 2009. They wanted the condition to come before any payment was made."

Mr. Lewis flatly rejected the offer.

"I told them I will settle this case on Judge Meyer's number. It's as simple as that.

"The judge's writings are writings that have always made a certain amount of sense to us. We'll have no conditions. We'll have no third-party settlement. My lawyer and them (attorney general) found some common ground. They just forgot about me."

## RETRACTED

The state apparently reconsidered.

Mr. Lewis said he received a call from his lawyer Thursday morning saying APA and the Attorney General's Office retracted the condition.

This round in court is the second phase of an ongoing legal battle drawn across state environmental and farm-use regulatory boundaries.

Courts ruled in 2008 that APA has no jurisdiction over agricultural-use buildings on working farms.

The farmers won again when APA and the Attorney General's Office, then run by now-Gov. Andrew Cuomo, appealed the lower court's decision.

## 'ABUSE OF LAW'

"This second part of the proceeding, which started in 2009, is about money," Mr. Lewis said.

But it is also about precedent.

Lewis Family Farm initially sought \$208,000 in itemized costs associated with the case.

In ordering what the state would repay, Meyer essentially created a road map for legal recourse, should other farms or property owners challenge APA enforcement actions in court.

"The state knows the decision sets dangerous precedent whereby small companies can get court fees back," Mr. Lewis said Thursday.

"Meyer's decision pointed to abuse of the law in a process that has deliberately protracted this case."

The attempt by state lawyers to erase the record, Mr. Lewis suggested, is an abuse of privilege as government.

"The message they want to send is no one should challenge the APA."

## 'BUYING THE COURT'

He takes criticism a step further in commentary published on his website: [www.sblewis.com](http://www.sblewis.com).

Lewis claims the agreement was parlayed in an attempt to silence due process.

"In a sense, government was buying the court of Judge Meyer, the people's court," Lewis wrote.

"For \$72,000, government proposed to alter the record, to eliminate any trace of two years' action."

## ROAD MAP

Howard Aubin, a member of the Local Government Review Board who has worked on APA issues with many Adirondack landowners, said the attorney general and APA wanted a "do-over."

"There is a key Equal Opportunity to Justice Act component of the (settlement) decision," Aubin said Thursday.

"Meyer drew a road map for individuals to follow to get legal fees back from cases brought against APA. Lawyers can use that case as a precedent.

"And to his credit, Sandy (Lewis) turned their deal down on principle."

"Now they can't get rid of it (the legal decision)," Mr. Lewis said Thursday.

#### AWAITING FINALIZATION

But the court settlement is not signed, sealed or delivered.

"No, I haven't signed anything," Mr. Lewis said.

"They (Attorney General's Office) have to type up the documents. The moment that thing is signed, interest rates — they start, I think, at 8 percent — start accumulating."

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## Settlement talks between farm, APA stall over state demand

APRIL 27, 2011 6:58 PM • BY WILL DOOLITTLE--WILL@POSTSTAR.COM

ALBANY -- Settlement talks between representatives of the Adirondack Park Agency and an Essex County organic farm over legal fees the APA owes the farm stalled on Tuesday, according to one party to the talks.

The two sides agreed on a figure, but the talks foundered on a condition insisted upon by the APA, according to Sandy Lewis, owner of Lewis Family Farm in Essex.

Lawyers for the attorney general's office, representing the APA, wanted the judge in the case to vacate his own decisions in the case, so they cannot serve as legal precedents, Lewis said.

Essex County acting Supreme Court Judge Richard Meyer ruled last year that the APA had to reimburse Lewis Family Farm for the money it had spent suing the APA in a dispute over farmworker housing.

The APA had previously asserted jurisdiction over housing the farm had built for workers. But the Lewises, backed by the New York Farm Bureau, argued that because farms are largely exempt from APA jurisdiction, the farmworker housing was exempt.

Lewis Family Farm won the case, then won again when it sued for legal fees under the state's Equal Access to Justice Act.

On Tuesday, the two sides met with a state settlement officer to negotiate the amount the APA will reimburse Lewis Family Farm for its legal fees. Lewis said the sides agreed on about \$72,000, a figure that had been set by Judge Meyer.

Lewis had been seeking more than \$200,000.

State Sen. Elizabeth Little, R-Queensbury, said she had been in touch with state officials before the talks and had expected that a settlement would be reached.

"I don't really understand it," she said, of the talks' collapse.

Daniel Manning, the Essex County attorney, said none of the circumstances under which cases are vacated seem to apply to this one.

And, Manning said, it would be strange to condition a settlement upon the consent of a third party - "any third party." In this case, Judge Meyer would be a third party to the settlement talks.

Essex County Clerk Joseph Provoncha said, in his experience, court decisions are rarely vacated.

Lewis said the APA is trying to ensure that the cases do not set a legal precedent for other people seeking legal fees from the state.

"It's government at its worst," he said. "They want to hide the record."

Lewis' lawyer, John Privitera, refused to comment on the settlement negotiations.

But Privitera had said earlier that \$72,000 was the largest award he knew of ever granted under the state's Equal Access to Justice Act.

APA spokesman Keith McKeever said agency officials would not comment on the negotiations.

Loretta Simon, one of the lawyers from the attorney general's office involved in the settlement talks, also refused to comment.

# Adirondack Park Agency trying to tip the scales of justice

This just seems plain wrong to me! From a very young age, we've been taught to respect authority. This land of the free we all treasure so dearly was built on the concept of a judicial system that provided equality and fairness and was blind to the rich and powerful and governmental overreach. It's a simple concept that is known and understood worldwide.

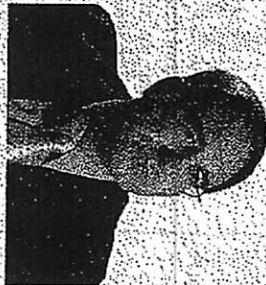
Then why is Sandy Lewis being treated so unfairly? After proving in court and through appeal that the Lewis Family Farm in Essex was well within its right to construct housing for its workers, New York State now seeks to have the final chapter of this case removed from the record, as though it never took place.

Never look placed? That's right, the state wants to pretend this case never happened. They want no record of their failure of driving the costs much higher than was needed and then removal all record of it's reimbursement of those legal costs to the Lewis Fam-

ily Farm

It's clear that the Adirondack Park Agency doesn't have an appetite for being told it was wrong. This outrageous move would be like the New England Patriots a few years back, after posting an undefeated season, heading into the Super Bowl, and then after losing to the New York Giants in that final game, declaring the game never took place and remaining undefeated.

The arrogance of this move goes far beyond any definition of fairness or justice. In a nutshell, the state has now been told by the courts that they must reimburse the Lewis Family Farm for at least a portion of the legal expenses incurred defending themselves against the actions brought by the APA. Ah, but wait. The state wants



**Dan Alexander**

Thoughts from Behind the Pressline

Let's face it, we paid for the government's action through our taxes. They have nothing personally to lose. What's the down side for them when someone has the nerve to challenge one of their rulings? They have the power and finances to buy a private citizen and, by attempting to remove or hide any portion of the public record, it send a very clear message ...

one more chance to tip the scales of justice. Before any reimbursement is awarded, the record on making this payment must disappear. No removal, no check.

Is this fair or right? How do we teach those in our society to own up to their mistakes and learn from them if we allow our government agencies to run rough shot over its citizens and get away with it?

Don't mess with us! When a child continues to steal and the only punishment is to give the item back to its rightful owner, if the owner can prove it was theirs to begin with, what lesson is learned? So long as you can get away with it, why not take everything you want anytime you want? The lesson learned is simple. Keep doing it until someone puts a stop to it and there is a level of punishment commensurate with the act. Government must be held to the highest standard possible given its unlimited resources and when proven wrong, repeatedly, should face some sort of restrictions or censorship. They have no skin in the contest, and with nothing to lose, it only serves to empower them all the more. Gov. Andrew Cuomo says he wants to improve ethics at the state government level. This is the perfect time for the Governor to send a clear message that those of us living in the Adirondack Park have rights, too!

As citizens, we all owe a great deal

of gratitude to Sandy and Barbara Lewis for standing up to the APA and the State of New York. Very few among us would have or could have taken the actions they did, and that's what's at the root of this issue. The APA knows they can have their way, interpret the rules any way they see fit, and the average citizen has little choice but to cave in to their demands or risk losing everything.

It's time for the APA and the state to admit they were wrong and let facts of their actions remain on the record for all to know that they are not invincible. They must learn to deal with the average citizen in a fair, equitable way and not as the big bully they have proven to be time and time again.

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## Letters

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Service, Border Press, Kneucraft Fine Jewelry, Price Chopper, Adirondack Tribal Art, Finney's Sports, Nephew's Liquor and Discount Wine, Ace Hardware, Chazy Hardware, Lakeside Coffee Lakeside, Gafé & Bakery, Burton, Brand, Tromble

## Letters to

### We've Seen Enough' event May 31

Each year, on May 31, World Health Organization (WHO) celebrates World No Tobacco Day to highlight the risk associated with tobacco use and to advocate for policies to reduce tobacco consumption worldwide.

According to the Campaign for Tobacco Free Kids, almost half of children regularly breathe air polluted by tobacco smoke. Over 40 percent of children have at least one smoking parent. In 2004,