

STATE OF NEW YORK
SUPREME COURT COUNTY OF ESSEX

ENTERED AND FILED
ESSEX COUNTY CLERK

2013 AUG -1 PM 1:46

ELIZABETHTOWN, NY 12932

**In the Matter of the Application of
LEWIS FAMILY FARM, INC.,
SALIM B. LEWIS and BARBARA A. LEWIS
Tax Map No. 49.3-2-24.000
Tax Map No. 49.3-2-27.000**

Petitioners,

vs.

**STIPULATION AND ORDER
OF SETTLEMENT**

**DAVID SAYRE, Chairman of The Board of
Assessors of the Town of Essex, THE BOARD OF
ASSESSMENT REVIEW OF THE TOWN OF
ESSEX, and THE TOWN OF ESSEX,**

Index Nos.
437-11, 443-12

Respondents.

For a Review of the Tax Assessment Under
Article 7 of the Real Property Tax Law.

WHEREAS, Petitioners Lewis Family Farm, Inc., Salim B. Lewis and Barbara A. Lewis (collectively, "Petitioners") commenced the above-captioned tax assessment challenges ("Proceedings") by and through their attorneys, Brennan and White, LLP, Joseph R. Brennan, Esq., of Counsel, under Real Property Tax Law ("RPTL") Article 7 against the Respondents David Sayre, Chairman of the Board of Assessors of the Town of Essex ("Chairman"), the Board of Assessment Review of the Town of Essex ("BAR"), and the Town of Essex ("Town"), which, by and through their attorneys, Hiscock and Barclay, LLP, Mark R. McNamara, of Counsel, duly appeared; and

WHEREAS, Petitioners and the Town are collectively referred to as the "Parties"; and

WHEREAS, the real property at issue in the Proceedings is situated in the Town and described on the Town's assessment rolls for the tax years 2011-12, 2012-13, and 2013-14 as follows:

<u>Street Address</u>	<u>SBL No.</u>
1212 Whallons Bay Road ("1212 Whallons Bay")	49.3-2-24
909 Whallons Bay Road ("909 Whallons Bay")	49.3-2-27;

and

WHEREAS, the Parties have engaged in settlement discussions and have agreed to fully resolve their differences without further litigation upon the terms of this Stipulation and Order of Settlement ("Stipulation and Order"); and

WHEREAS, the Parties have authorized their attorneys to enter into the Stipulation and Order; and

WHEREAS, the Stipulation and Order is in the best interests of the Parties hereto; and

UPON reading and filing of the Stipulation and Order, it is hereby:

STIPULATED AND ORDERED that the 2011, 2012, and 2013 assessed valuations for 1212 Whallons Bay shall be set as provided for in the following table:

<u>Property Location</u>	<u>SBL No.</u>	<u>Stipulated and Ordered Assessed Valuations on the Town's 2011, 2012, and 2013 Final Assessment Roll</u>
1212 Whallons Bay	49.3-2-24	\$129,500

STIPULATED AND ORDERED that the only exemption applicable to 1212 Whallons Bay is the STAR exemption, which by law, will be \$30,000 applicable to the school tax bill; and it is further

STIPULATED AND ORDERED that the 2011-12, 2012-13, and 2013-14 tax bills for 1212 Whallons Bay will be recalculated on the basis of the reduced assessments; and it is further

ORDERED that any and all interest and penalties that may be required by law on the 2011-12, 2012-13, and 2013-14 town, county or school tax bills for 1212 Whallons Bay shall be cancelled or waived; and it is further

STIPULATED AND ORDERED that RPTL 727 will apply so that the total assessment for 1212 Whallons Bay will be set at \$129,500 on the 2014, 2015, and 2016 assessment rolls; and it is further

STIPULATED AND ORDERED that the 2011 assessment for 909 Whallons Bay shall be set as provided for in the following table:

<u>Property Location</u>	<u>SBL No.</u>	<u>Stipulated and Ordered Assessed Valuations on the Town's 2011 Final Assessment Roll</u>
909 Whallons Bay	49.3-2-27	\$2,158,100

STIPULATED AND ORDERED that the 2011 assessment for 909 Whallons Bay shall be broken down as follows:

Land	\$1,055,600	
Improvements	\$1,102,500	
	Site improvements	<u>Improvements Breakdown</u>
	Residences (5)	\$45,500
	Barns	\$380,000
		\$677,000

STIPULATED AND ORDERED that the 2012 assessed valuation for 909 Whallons Bay shall be set as provided for in the following table:

<u>Property Location</u>	<u>SBL No.</u>	<u>Stipulated and Ordered Assessed Valuations on the Town's 2012 Final Assessment Roll</u>
909 Whallons Bay Road	49.3-2-27	\$2,341,690

STIPULATED AND ORDERED that the 2012 assessment for 909 Whallons Bay shall be

broken down as follows:

Land	\$1,055,600	
Improvements	\$1,286,090	<u>Improvements</u>
		<u>Breakdown</u>
	Site improvements	\$45,500
	Residences (5)	\$380,000
	Barns (11)	\$860,590

STIPULATED AND ORDERED that the 2013 assessed valuation for 909 Whallons Bay shall be

set as provided for in the following table:

<u>Property Location</u>	<u>SBL No.</u>	<u>Stipulated and Ordered</u> <u>Assessed Valuations on the</u> <u>Town's 2013 Final</u> <u>Assessment Roll</u>
909 Whallons Bay	49.3-2-27	\$2,341,690

STIPULATED AND ORDERED that the 2013 assessment for 909 Whallons Bay shall be

broken down as follows:

Land	\$1,055,600	
Improvements	\$1,286,090	<u>Improvements</u>
		<u>Breakdown</u>
	Site improvements	\$45,500
	Residences (5)	\$380,000
	Barns (11)	\$860,590

STIPULATED AND ORDERED that the following agricultural exemptions shall apply to 909

Whallons Bay:

Land - 2011

Assessed Valuation	\$1,055,600
--------------------	-------------

Taxable Amount	<u>518,922</u>
Exempt Amount	\$ 536,678

Land - 2012

Assessed Valuation	\$1,055,600
Taxable Amount	<u>574,575</u>
Exempt Amount	\$ 481,025

Land - 2013

Assessed Valuation	\$1,055,600
Taxable Amount	<u>572,163</u>
Exempt Amount	\$ 483,437

Improvements - 2011

Year Exemption Expires

House #2 (2290 SF)	\$179,473	2018
House #4 (2280 SF)	65,225	2018
House #5 (2240 SF)	42,080	2018
House #6 (2240 SF)	42,080	2018
Campus Hay Storage #1	\$ 159,269	2014
Campus Hay Storage #2	159,269	2014
Campus Hay Storage #3	49,881	2014
Hay Drying #1	18,735	2015
Hay Drying #2	18,735	2015

Improvements - 2012

Year Exemption Expires

House #2 (2290 SF)	\$179,473	2018
House #4 (2280 SF)	65,225	2018
House #5 (2240 SF)	42,080	2018
House #6 (2240 SF)	42,080	2018
Campus Hay Storage #1	\$ 159,269	2014
Campus Hay Storage #2	159,269	2014
Campus Hay Storage #3	49,881	2014
Hay Drying #1	18,735	2015
Hay Drying #2	18,735	2015

New Barn 60' X 80'	107,431	2022
New Barn 40' X 60'	82,637	2022

Improvements – 2013

Year Exemption Expires

House #2 (2290 SF)	\$179,473	2018
House #4 (2280 SF)	65,225	2018
House #5 (2240 SF)	42,080	2018
House #6 (2240 SF)	42,080	2018
Campus Hay Storage #1	\$ 159,269	2014
Campus Hay Storage #2	159,269	2014
Campus Hay Storage #3	49,881	2014
Hay Drying #1	18,735	2015
Hay Drying #2	18,735	2015
New Barn 60' X 80'	107,431	2022
New Barn 40' X 60'	82,637	2022

ORDERED that any and all interest and penalties that may be required by law on the 2011-12, 2012-13, and 2013-14 town, county or school tax bills for 909 Whallons Bay shall be cancelled or waived; and it is further

STIPULATED AND ORDERED that the 2011-12, 2012-13, and 2013-14 tax bills for 909 Whallons Bay will be recalculated on the basis of the reduced assessments; and it is further

STIPULATED AND ORDERED that RPTL 727 will apply so that the total assessment for 909 Whallons Bay will be set at \$2,341,690 on the 2014, 2015, and 2016 assessment rolls; and it is further

STIPULATED AND ORDERED, that an executed copy of the Stipulation and Order, with Notice of Entry, shall be entered and docketed in the Essex County Clerk's Office and be filed among the Assessor's permanent records; and it is further

STIPULATED AND ORDERED, this Stipulation and Order may be signed in one or more counterparts, each of which shall be deemed to be an original and all of which when taken together shall

constitute the same Stipulation and Order. Any signed copy of this Stipulation and Order made by photocopy or facsimile shall be considered an original.

DATED: August 1, 2013


BRENNAN & WHITE, LLP

By: 
Joseph R. Brennan, Esq.

Attorneys for Petitioners
Lewis Family Farm, Inc., et al.
153 Haviland Road
Queensbury, NY 12804
Telephone: (518) 793-3424


DATED: August 1, 2013

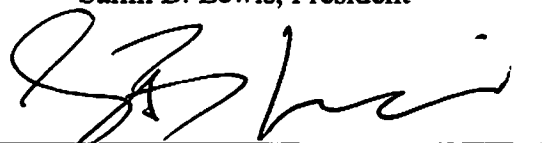
HISCOCK & BARCLAY, LLP

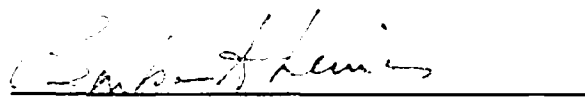
By: 
Mark R. McNamara, Esq.

Attorneys for Respondents
Town of Essex, et al.
1100 M&T Center
Buffalo, NY 14203
Telephone: (716) 566-1300


LEWIS FAMILY FARM, INC.

By: 
Salim B. Lewis, President


Salim B. Lewis

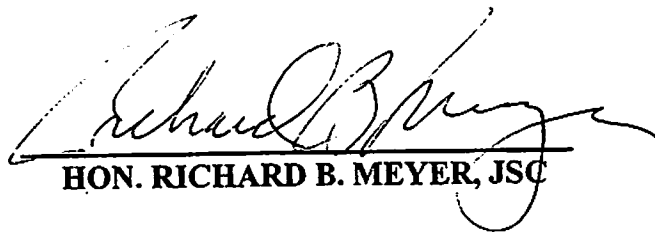

Barbara A. Lewis

TOWN OF ESSEX

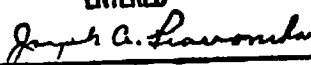
By: 
Sharon Boisen, Supervisor

HISCOCK & BARCLAY, LLP

SO ORDERED:


HON. RICHARD B. MEYER, JSC

ENTER:

ENTERED

JOSEPH A. PROVONCHA
ESSEX COUNTY CLERK
DATED: 8/1/2013

FILED
ESSEX COUNTY CLERK
2013 AUG - 1 PM 1:46
ELIZABETHTOWN, NY 12932

HISCOCK & BARCLAY, LLP