

NOTICE OF TERMINATION

To: RC Recreation Development, LLC
Mr. Larry Nussbaum
P.O. Box 346
Shrub Oak, NY 10588
larrynussbaum1@gmail.com

PLEASE TAKE NOTICE that, in September 2014, the Town entered into a Concession Agreement with RC Recreation Development, LLC (“RC”), for RC to provide golf recreational facilities to the public at the Town-owned park located on the south side of Route 6 at the intersection of the Taconic Parkway, in Jefferson Valley, New York, in the Town of Yorktown (currently known as the Valley Fields Golf Course); and

PLEASE TAKE FURTHER NOTICE THAT, said Concession Agreement was amended in May 2018, and is set to expire on August 31, 2028; and

PLEASE TAKE FURTHER NOTICE THAT, RC has repeatedly provided the Town with projected dates for RC to commence full operation of the golf course and restaurant (collectively the “Park”), which dates RC has repeatedly failed to meet; and

PLEASE TAKE FURTHER NOTICE THAT, on July 6, 2022, and upon inspection of the work performed by RC at the Park, the Town’s Building Inspector observed numerous code violations that necessitated the issuance of a Stop Work Order, which was issued on that date;

PLEASE TAKE FURTHER NOTICE THAT, the deficiencies were observed at the Park by the Town and RC was informed of the deficiencies/violations in writing on July 12, 2022.

PLEASE TAKE FURTHER NOTICE THAT, on September 6, 2022, the Town Board adopted the attached resolution (incorporated herein by reference) finding RC in material breach of the Concession Agreement (due to the Violations and RC’s failure to commence full operation of the Park), and providing RC an opportunity to cure the material breaches (“Cure Resolution”);

PLEASE TAKE FURTHER NOTICE THAT, the Town conducted an inspection of the Park on November 15, 2022, and determined that RC has failed to cure the material breaches within the time provided in the Cure Resolution;

PLEASE TAKE FURTHER NOTICE THAT, the Concession Agreement provides that the Town “may immediately terminate” the Concession Agreement if RC does not cure a material breach “within thirty (30) days of such written notice by the Town identifying a material breach;” now, therefore

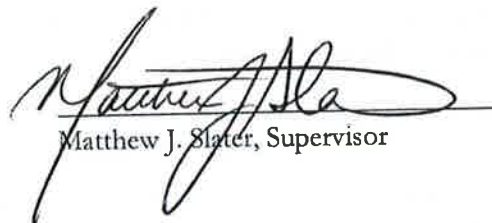
PLEASE TAKE FURTHER NOTICE THAT, on November 15, 2022, the Town terminated the Concession Agreement due to RC’s failure to cure the previously noticed material breaches thereof.

PLEASE TAKE FURTHER NOTICE THAT, the Concession Agreement further provides that "the Town has the absolute right to terminate [the Concession Agreement] at will by providing written notice of such intention to terminate the license at least sixty (60) days prior to the commencement of the golf season on April 1 each year;"

PLEASE TAKE FURTHER NOTICE THAT, on November 15, 2022, the Town alternatively terminated the Concession Agreement in accordance with its "absolute right" to do so.

PLEASE TAKE FURTHER NOTICE THAT, RC must vacate and remove all its belongings and personal property from the Park by November 30, 2022.

Dated: Yorktown, New York
November 16, 2022



Matthew J. Slater, Supervisor

Diana L. Quast, Town Clerk
dquast@yorktownny.org



Registrar of Vital Statistics
Telephone: (914) 962-5722 x 208
Fax: (914) 962 6591

TOWN OF YORKTOWN
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

This is a resolution adopted by the Town Board of the Town of Yorktown at its regular meeting held on Tuesday, September 6, 2022.

WHEREAS, in September 2014, the Town entered into a Concession Agreement with RC Recreation Development, LLC ("RC"), for RC to provide golf recreational facilities to the public at the Town-owned park located on the south side of Route 6 at the intersection of the Taconic Parkway, in Jefferson Valley, New York, in the Town of Yorktown (currently known as the Valley Fields Golf Course); and

WHEREAS, said Concession Agreement was amended in May 2018, and is set to expire on August 31, 2028; and

WHEREAS, RC has repeatedly provided the Town with projected dates for it to commence full operation of the golf course and restaurant (collectively the "Park"), which dates RC has repeatedly failed to meet; and

WHEREAS, RC represented to the Town that it will commence full operation of the golf course and restaurant (collectively the "Park") by July 4, 2022; and

WHEREAS, RC failed to commence full operation of the Park by July 4, 2022; and

WHEREAS, on July 6, 2022, and upon inspection of the work performed by RC at the Park, the Town's Building Inspector observed numerous code violations and instances of work that were not performed in a workmanlike manner and in accordance with good construction practices (in violation of § 104.4 of the NYS Property Maintenance Code), that necessitated the issuance of a Stop Work Order, which was issued on that date; and

WHEREAS, at the time the Stop Work Order was issued, RC was working under expired Mechanical, Plumbing and Commercial Addition/Renovation Permits (collectively the "Expired Permits"), all in violation of § 15-41(1) of the Town Code, and in violation of paragraphs 6(b)(iv) and 14 of the Concession Agreement; and

WHEREAS, the following deficiencies (which violate paragraphs 6, 7 and 14 of the Concession Agreement) were observed at the Park by the Town and RC was informed of these deficiencies/violations (collectively the "Violations") in writing on July 12, 2022:

1. Wiring in the kitchen was exposed and unprotected, which is an electrical system hazard as per NYS Fire Code § 604.1 and National Electrical Code ("NEC") 70.
2. Exterior electrical trenches were exposed and not covered, which is an electrical system

- hazard as per NYS Fire Code § 604.1 and NEC 70.
3. Unapproved material was used as electrical conduit for exterior lamp post. This is an electrical system hazard as per NYS Fire Code § 604.1 and NEC 70.
 4. Recreational vehicle trailer use in the Park is an unlisted use that is not permitted in the CR zoning district. Also § 300-70E of the Town Code states that only one main building plus accessory building for storage or similar use is allowed.
 5. RC installed a connection to the main water line servicing the Park (*before the water meter*) that was being used to service, at a minimum, the Park's irrigation system. This connection violates Town Code § 280(15)(b)(2) and 222-8, violates the expired Plumbing Permit, and violates paragraphs 7 and 14 of the Concession Agreement.
 6. Bridges throughout the Park were incomplete and without guardrails, which creates an unsafe condition that is a violation of NYS Property Maintenance Code § 107.1.

WHEREAS, as a consequence of the foregoing, on July 12, 2022, State Wide Inspection Services, Inc. ("SWIS") rescinded the electrical Certificate of Completion that had been issued to RC for electrical work at the Part, due to "[a]dditional work . . . performed at [the Park] that was not inspected by SWIS which may compromise the electrical safety in the building."

WHEREAS, on July 18, 2022 RC was notified that pursuant to section 382 of Article 18 of the New York State Executive Law, RC has 30 days to remedy the violation of the Memorandum of Violations and that it may continue to work on the violations listed to correct each of the violations;

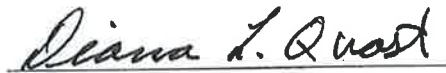
WHEREAS, more than 30 days have passed since July 18, 2022 and RC has not remedied the noted violations nor has RC rectified the expired permits;

WHEREAS, before RC can commence full operation of the Park, the following items remain outstanding (collectively the "Outstanding Items"):

1. The Ansel fire system is not completed or tested as per NYS Fire Code § 607.
2. Fire Alarm permit is required and system must be installed according to NFPA 72.
3. Kitchen Hood system not completed or tested as per NYS Mechanical Code § 506.
4. Kitchen equipment not installed properly as per NYS Mechanical Code § 301.1
5. Grease interceptors are not complete as per NYS Plumbing Code § 1003 and require Westchester County Board of Health ("WCBOH") approvals.
6. Septic system requires WCBOH approvals.
7. Kitchen sinks with indirect waste lines do not have air gap as per NYS Plumbing Code § 802.3.1.
8. Exterior door requires a staircase as per NYS Building Code § 1011.1.
9. Compliance with the Planning Board's Site Plan Approving Resolution, which has several conditions and requirements that must be met, including completion of the parking lot according to the approved plan, planting of trees to satisfy mitigation requirements, and planting of stream bank plant material to satisfy wetland permit requirements.
10. Obtaining all necessary Certificates of Completion/Occupancy from the Building Department.
11. Complying with all requirements of the Concession Agreement.

NOW, BE IT RESOLVED, that:

- The Expired Permits and Violations constitute a material breach of the Concession Agreement and;
- RC has failed to cure the expired permits and violations within thirty (30) days of written notice, the Town will hereby terminate the Concession Agreement.
- RC's failure, for over four years, to commence full operation of the Park, also constitutes a material breach of the Concession Agreement and, if RC does not complete/achieve all of the Outstanding Items and commence full operation of the Park by November 15, 2022, the Town will terminate the Concession Agreement.
- The Town Attorney shall provide written notice of the foregoing to RC.



Diana L. Quast, Town Clerk
Certified Municipal Clerk

Date: September 7, 2022

To: RC Recreation Development, LLC

cc: Matthew J. Slater, Town Supervisor
Patricia Caporale, Town Comptroller
James Martorano, Jr., Parks & Recreation Superintendent
Adam Rodriguez, Town Attorney
file

