



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. ELU-CA 12688-08

AGENCY DKT. NO. 13310-07-0032.1

BERNARD AND KARA VAUGHAN,

Petitioners,

v.

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION – LAND
USE REGULATION,**

Respondent.

Bernard and Kara Vaughan, petitioners, pro se

Jill Shiu-Mei Denyes, Deputy Attorney General, for respondent (Christopher S. Porrino, Attorney General of the State of New Jersey, attorney)

Record Closed: July 7, 2017

Decided: July 7, 2017

BEFORE **LESLIE Z. CELENTANO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioners appeal the denial of their application for a Coastal General Permit on July 3, 2008. The petitioners' request for a hearing was granted and the matter was

transmitted to the Office of Administrative Law on December 30, 2008, for hearing as a contested case. After efforts at resolution failed, a hearing was commenced on August 24, 2011 and continued on August 26, October 20, November 3 and December 2, 2011.

Following the hearing, settlement discussions were revived by the parties and the undersigned advised that a resolution had been reached. That resolution required that petitioners forward new application materials for DEP to review.

On May 22, 2014, the undersigned corresponded with the parties inquiring as to the status of this matter. Respondent advised that the parties were working towards a resolution and that they were awaiting materials from petitioners who were experiencing personal difficulties which contributed to the delays.

Thereafter, the undersigned corresponded with the parties inquiring as to the status of this matter in October 2014; March 2015; November 2015; and July 2016.

On August 3, 2016, respondent again advised that petitioners were experiencing personal difficulties that were preventing them from submitting a plan for review.

On February 28, 2017, the DEP filed a Motion to Dismiss for failure to prosecute. Having received no response to that motion, on May 10, 2017, the undersigned corresponded with petitioners advising that the motion was then unopposed. Petitioners were advised that if they intended to submit responsive pleadings, they needed to do so by May 26, 2017, or the matter would be dismissed. Nothing was received from petitioners.

Nearly nine years have elapsed since the filing and transmittal of this matter. Accordingly based upon all the foregoing I **FIND** that this matter should be and is hereby **DISMISSED** without prejudice.

I hereby **FILE** my initial decision with the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Environmental Protection does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, OFFICE OF LEGAL AFFAIRS, DEPARTMENT OF ENVIRONMENTAL PROTECTION, 401 East State Street, 4th Floor, West Wing, PO Box 402, Trenton, New Jersey 08625-0402**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

July 7, 2017

DATE



LESLIE Z. CELENTANO, ALJ

Date Received at Agency:

July 7, 2017

Date Mailed to Parties:

dr