

# ACR PRESS RELEASE

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## **FOR IMMEDIATE RELEASE**

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**PROTECT THE ADIRONDACKS!, SIERRA CLUB AND ADJOINING LANDOWNERS CHALLENGE ADIRONDACK PARK AGENCY'S APPROVAL OF LARGEST DEVELOPMENT PROJECT TO EVER COME BEFORE IT**

ALBANY—The grassroots environmental group Protect the Adirondacks!, the Sierra Club, and three nearby landowners today sued the Adirondack Park Agency, the Department of Environmental Conservation, and the developer proposing the 700+ unit “Adirondack Club and Resort” mountainside project in the Town of Tupper Lake, Franklin County, which was approved by the Agency on January 20. The suit, filed in the Supreme Court in Albany County, and expected to be transferred by that court to the Appellate Division, Third Department, is returnable on May 11.

“When Governor Rockefeller signed the law creating the APA, he is said to have proclaimed ‘The Adirondacks are saved forever’,” said Bob Glennon of PROTECT!, a former Counsel and Executive Director of the Agency who is assisting in the lawsuit. “He was tragically wrong. It is now up to Governor Cuomo, who has often visited the Adirondacks with his family, and who has proven he can get things done in Albany, to give the agency charged with preserving the largest natural area east of the Mississippi for 19 million New Yorkers and future generations, a badly-needed backbone implant.”

“In the last few years APA has become a rogue agency that ignores the law for political ends” said John Caffry of PROTECT!, the lead attorney in the case. “Its rubber-stamp approval of this project, the largest ever to come before it, is only the latest example of this unfortunate trend.”

“For years, the Adirondack Park Agency has failed to adequately protect land classified as

‘Resource Management’ under the APA Act,” stated Roger Downs, Conservation Director of the Sierra Club Atlantic Chapter. “The Act created this land classification category for the purpose of preserving open land by protecting agricultural and timber management lands in the Adirondack Park, not for multi-million dollar McMansions. It is past the time for the APA to stop cutting corners with its existing laws and regulations and to act to protect New York’s great wilderness legacy.”

“Born and raised in New York State, I have always loved the Adirondacks,” said Dr. Phyllis Thompson, an adjoining landowner and a co-petitioner in the case. “It saddens me, it angers me, to see that the APA statutes have not been enforced.”

On January 20, following 19 days of hearings and four years of fruitless and sporadic “mediation sessions” and other delays by the developer, Preserve Associates, LLC, the Agency voted 10-1 to approve the 6,235-acre ACR project, comprised of 206 single family dwellings, 453 units in 125 multifamily dwellings, a 60-room inn with a restaurant, a ski lodge and a ski services building, a gym and recreation center, a spa/health club, an amphitheater, a clubhouse, an equestrian center, a marina, a 280,000-gallon water storage tank, 15 miles of electric transmission lines, a sewage pump station, a community wastewater treatment plant and collection system, 10 miles of roads to be dedicated, and 5+ miles of private roads.

While much of the intensive development is proposed for lands classified “Moderate Intensity Use,” where the law intends for it take place, of major concern to PROTECT! and the Sierra Club, is the proposed fragmentation of 4,805 acres of undeveloped forest lands classified “Resource Management” by the Adirondack Park Agency Act, into 35 “Great Camp” lots and 45 other smaller lots. Resource management lands are described in the APA Act as those “where the need to protect, manage and enhance forest, agricultural, recreational and open space resources is of paramount importance because of overriding natural resource and public considerations,” mentioning, among other development constraints, shallow soils, severe slopes, wetlands, critical wildlife habitats and habitats of rare and endangered plant and animal species. Their “basic purposes and objectives” are “to protect the delicate physical and biological resources, encourage proper and economic management of forest, agricultural and recreational resources and preserve the open spaces that are essential and basic to the unique character of the park.”

PROTECT!, the Sierra Club and the co-petitioners charge that the APA violated the above components of its legal mandate. For example, despite having formally asked the developer to prepare a four-season, comprehensive wildlife study no less than four times, the Agency approved the fragmentation of the undeveloped forest lands without ever having received it. Even more puzzling is the Agency’s approval of the project on the condition that more studies of impacts to wildlife would be done after that approval, rather than beforehand.

None of the “Great Camp” lots or the 45 other lots in the Resource Management lands are sited, as the statute calls for, “in small clusters on carefully-selected and well designed sites.”

The developer plans, and the Agency approved, without having DEC’s views as to its legality, a valet boat launching service, trailering lot owners’ boats to a DEC-operated boat launching site on Tupper Lake, monopolizing a public facility with their sheer numbers and engaging in a commercial use thereon, in violation of several State

regulations and the “forever wild” clause of the State Constitution.

The initial road, sewer, water and electric infrastructure for the project is proposed to be financed by \$36 million in bonds to be issued by the Franklin County Industrial Development Agency, which PROTECT! and the Sierra Club claim is illegal. The IDA’s own bond counsel has also questioned the novel scheme.

The suit also alleges the APA violated its own regulations in numerous respects, including allowing illegal “ex parte” contacts (contacts not on notice to the other parties to the proceeding) between the developer’s representatives and APA’s executive staff.

In upholding the Adirondack Park Agency Act against a “home rule” attack in 1977, the Chief Judge, writing for a unanimous Court of Appeals, said:

“[P]reserving the priceless Adirondack Park through a comprehensive land use and development plan is most decidedly a substantial State concern, as it is most decidedly not merely 119 separate local concerns... All but conclusive of this aspect of the issue is the constitutional and legislative history stretching over 80 years to preserve the Adirondack Area from despoliation, exploitation, and destruction by a contemporary generation in disregard of the generations to come.

“In the face of increasing threats to and concern with the environment, it is no longer true, if it ever was, that the preservation and development of the vast Adirondack spaces, with their unique abundance of natural resources—land, timber, wildlife, and water—should not be of the greatest moment to all people of the State. These too relate to life, health and the quality of life.”

Caffry, Downs and Glennon will hold a press briefing at 11 a.m. on Thursday, March 22 in the Legislative Correspondents’ Association room in the Legislative Office Building in Albany.

PROTECT! is a 501(c)(3) not-for-profit organization. Donations in support of the lawsuit will be most appreciated. Checks may be made out to “Protect the Adirondacks” with “Adirondack Legal Defense Fund” in the memo line and mailed to PROTECT, Box 4124, Schenectady, NY 12304. PROTECT!’s website is [www.protectadks.org](http://www.protectadks.org).