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March 1, 2024

Via Electronic Mail

Mr. Ron Clapp
Carleton Villa, LLC
711 N. Broadway
Lantana, FL 33462
rc@carletonvilla.com

Dear Mr. Clapp:

Re: Prohibited Development of SBL No. 39.27-1-16, Cape Vincent, NY
Our File No.: *pending*

I have been retained as litigation counsel for Thousand Islands Land Trust, Inc. ("TILT") with respect to the matters discussed in this letter. TILT is a 501(c)(3), not-for-profit conservation organization under section 49-0303 of the N.Y. Environmental Conservation Law (the "ECL"), as it is organized to conserve real property. TILT's mission is prioritized to safeguard the regional landscape of the Thousand Islands. Currently, TILT protects over 13,000 acres of land through both fee ownership and conservation easements, including important wetland, grassland, and woodland habitats. Since 2009, TILT has been nationally accredited by the Land Trust Accreditation Commission, including receiving reaccreditation in 2014 and 2019. You are receiving this letter because you and/or Carleton Villa, LLC submitted a Special Use Permit Application, dated October 4, 2023, to the Town of Cape Vincent, as well as submitting a Site Plan dated January 4, 2024.

The application and site plan describe a plan to develop (the "Prohibited Development") a property on Carleton Island, Cape Vincent, New York designated with Tax Map No. 39.27-1-16 (the "Villa Property"). The Prohibited Development includes, but is not limited to, the campground and/or glamp-ground area as identified on the Site Plan. As grantee, TILT holds a conservation easement on the Villa Property under a Deed of Conservation Easement in Gross (the "Conservation Easement"), a copy of which is being sent with this letter. The Villa Property also is subject to the Declaration of Restrictions of Carleton Island (the "Declaration of Restrictions"), a copy of which also is being sent with this letter. Both the Conservation Easement and the Declaration of Restrictions impose limitations on the use of the Villa Property in order to protect Carleton Island. Carleton Island is a significant conservation area with a wide array of resources and conservation values that TILT strives to protect. Given the proposed uses under the Special Use Permit Application and the Site Plan, this letter is being sent on behalf of TILT in furtherance of its conservation mission with respect to Carleton Island.

TILT is demanding that you and anyone else acting on behalf of Carleton Villa, LLC cease and desist from all efforts to proceed with the Prohibited Development. The Prohibited Development would violate several restrictions imposed by both the Conservation Easement and the

Declaration of Restrictions. Specifically, the Prohibited Development would violate paragraph 3(a) of the Conservation Easement because there are numerous structures called for within 100 feet of the shoreline, which are not duck blinds, docks, or boathouses. Section 3(b) of the Conservation Easement also would be violated because the removal of trees and vegetation called for in the Prohibited Development is more than 50% of the natural vegetation and would result in less than 100 feet of continuous vegetation remaining for every 300 feet of frontage. Lastly, restrictions 4, 7, and 16 of the Declaration of Restrictions would also be violated by the glamping structures and the debris, garbage, grading, and excavation from construction and development work.

In addition, under paragraph 2(a) of the Conservation Easement, TILT has the right to enforce the Conservation Easement as necessary to preserve "the natural, wildlife, wetland, open space, aesthetic, scenic, successive vegetate, and woodland features and values" of the Villa Property. TILT seeks to and will do just that. The Prohibited Development threatens and would irreparably harm these protected resources and features of both the Villa Property and Carleton Island as a whole. Indeed, in this respect, it cannot be disputed that the Prohibited Development would be inconsistent with the longtime use and character of the Villa Property and Carleton Island.

The Prohibited Development also would violate federal law. Federal tax law prohibits any private benefit from any part of a conservation donation and requires that such donation continue in perpetuity. The Conservation Easement here constitutes a conservation donation under Section 170(h) of the Internal Revenue Code (26 U.S.C. § 170(h)). As discussed above, the violations resulting from the Prohibited Development would run afoul of the perpetuity requirement. Further, given the increased property value and the profitability of the commercial uses resulting from the Prohibited Development in violation of the Conservation Easement, the Prohibited Development also would constitute an impermissible private benefit. Therefore, the Prohibited Development would violate federal tax law as well.

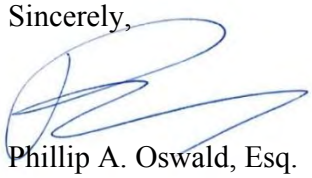
Accordingly, on behalf of TILT, this letter is a demand that you and anyone acting on behalf of Carleton Villa, LLC cease and desist from all efforts to proceed with the Prohibited Development, including refraining from any construction, excavation, and/or use of the Villa Property in furtherance of the Prohibited Development. In this respect, TILT further demands withdrawal of the Special Use Permit Application currently pending before the Town of Cape Vincent. If the Special Use Permit Application is not withdrawn within 30 days of the date of this letter or if any of the aforementioned building activities begin at any time, TILT will commence litigation to protect Carleton Island by enforcing the Conservation Easement and the Declaration of Restrictions.

Lastly, this letter is a formal demand that you preserve any and all potential evidence — whether in hardcopy or electronic form — pertaining, concerning, regarding, or in any way relating to the Prohibited Development. This includes, but is not limited to, contracts, plans, applications, drawings, specifications, photographs, video recordings, recordings of audio or computer media, measurements, testing/sampling results, meeting minutes, resolutions, agendas, memoranda, real evidence, documents, materials, written communications (including emails and text messages), and all other evidence and/or things. This demand to preserve applies to all materials in your possession, regardless of whether they were created by you or created by someone else and provided to you or otherwise came into your possession. The purpose of this

demand is to ensure that you refrain from destroying or otherwise altering any of this material, as it will be both relevant and discoverable in any future litigation. In the event that any materials are destroyed or otherwise disposed of, my client intends to seek sanctions and/or other legal relief for the spoliation of evidence.

You and/or your attorney are welcome to contact me should you want to discuss this matter further.

Sincerely,



Phillip A. Oswald, Esq.

Encls.

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Town of Cape Vincent Zoning Officer