



## LAW OFFICES OF DEBRA EILAND, PC

October 25, 2018

*via EDARP*

Mr. Len Kendall  
El Paso County Development Services  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

re: Rocky Top Motel & Campground, EA18250  
Request for Determination of Legal Non-Conformity

Dear Mr. Kendall:

I represent G&D Enterprises, Corp. and Mr. Daniel Nieman, the owner of Rocky Top Motel & Campground located at 10090 West Highway 24, Green Mountain Falls, Colorado. This letter is to request an administrative determination of legal non-conformity for the existing campground and motel use at this property.

The property contains a motel and RV park/campground. Pursuant to the El Paso County Assessor's records for Parcel # 8309200011, the motel and a storage warehouse were built in 1947, and the RV park/campground was built in 1950.<sup>1</sup> The motel has 15 rooms, including the laundry and Manager's quarters, and the RV park/campground has had as many as 72 campsites for trailers and RVs, and additional sites for tent camping.<sup>2</sup>

We have verified, through local residents with first-hand knowledge about the business, that the motel and RV park/campground has been in business since as early as 1956.<sup>3</sup> As of at least 1960, the owners of the business were Roy V. Jones and

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<sup>1</sup>**Exhibit 1**, El Paso County Public Record Property Information, Schedule # 8309200011. Although no records could be located to confirm this, Mr. Cecil Smischny told the undersigned that his father, Raymond Smischny, built the motel.

<sup>2</sup>**Exhibit 2**, El Paso County Public Record Commercial Data.

<sup>3</sup>**Exhibits 3-7**, Affidavits of Myrna Wey, Kayo Armentrout, David Vidmar, Beverley Vidmar, and Duane Schormann.

Laura B. Jones.<sup>4</sup>

In 1965, Mr. and Mrs. Jones sold the property to David A. Hansen and Vivian F. Hansen, who continued the business until 1978 when they sold it to Glenn T. Wagoner and Mary J. Wagoner.<sup>5</sup> In 1984, Friedrich and Helen Lechner purchased the business, and continued to operate it as a motel and campground until they sold it to Robert and Rosealie Rickles in 1987.<sup>6</sup> Mr. and Mrs. Rickles sold the business in 1995 to Carol Ann and Fredrick T. Smith. The business continued to be operated by each of the owners under the name Motel X until 1995, when Mr. and Mrs. Smith incorporated and changed the name to Rocky Top Motel and Campground.<sup>7</sup> The business has continued to be operated as Rocky Top Motel and Campground ever since.

At one time the campground had as many as 72 RV/camp sites in addition to tent sites.<sup>8</sup> The number of sites has decreased rather than expanded, and it currently has 58 RV/camp sites, which accommodate today's larger RVs. Regional Building Department records show that the motel and campground use has neither been expanded nor altered since 1950. The only work that has been done at the property has consisted of normal repairs and maintenance of the existing buildings.<sup>9</sup>

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<sup>4</sup>**Exhibit 8**, McAdams, Carolyn, *Green Mountain Falls News*, Colorado Springs Gazette, August 18, 1960, p. 15.

<sup>5</sup>**Exhibit 9**, Warranty Deed dated December 13, 1965; **Exhibit 10**, Obituary of Vivian Frances Hansen, published in *The Gazette* on May 24, 2006; and **Exhibit 11**, Warranty Deed dated February 1, 1978.

<sup>6</sup>**Exhibit 12**, Warranty Deed dated May 14, 1984, and Warranty Deed dated July 31, 1987.

<sup>7</sup>**Exhibit 13**, Warranty Deed dated May 17, 1995; and **Exhibit 14**, Certificate of Assumed or Trade Name by a Colorado Corporation, filed on July 13, 1995.

<sup>8</sup>See, Exhibit 15 for an interesting Smithsonian article about the history of the RV and RVing. Morrison, Jim, Commemorating 100 Years of the RV, August 24, 2010, <https://www.smithsonianmag.com/history/commemorating-100-years-of-the-rv-56915006/>

<sup>9</sup>See, Exhibit 16, Permit Search Results, PPRBD, Parcel # 8309200011. In 1984, Lamar Outdoor Advertising obtained a permit to install a billboard type sign on the southwest corner of the property. This sign is not part of the motel and campground business.

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It is clear from the historic records and the Affidavits that the business known as Motel X, and later Rocky Top Motel and Campground, was constructed and operated as a motel and RV park/campground in the 1950s, well before El Paso County established its first zoning regulations, and that this non-conforming use has continued through today.

Additionally, the motel and RV park/campground use has continued substantially in its original form, with only normal repairs and maintenance throughout the years. The use has not been changed, nor has it been altered or expanded in a way that increases the degree of non-conformity with the standards of the Code.

### **Conclusion**

The Planning and Community Development Director makes all decisions concerning non-conformities. LDC Ch. 5, ¶ 5.5.8. A non-conforming use may be continued, and a non-conforming building may continue to be occupied, unless the use is changed to another use, or the use is structurally altered or expanded. LDC Ch. 5.

Mr. Nieman respectfully requests that the PCD Director enter an administrative determination that the motel and RV park/campground business currently known as Rocky Top Motel & Campground, located at 10090 West Highway 24, Green Mountain Falls, Colorado, is a legal non-conforming use under the El Paso County Land Use Code.

Do not hesitate to contact me with any questions or if you need additional information. Thank you for your consideration.

Sincerely,



Debra Eiland, Esq.

Attachments: Exhibits 1-16

cc: Mr. Daniel Nieman