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**SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD
January 16, 2008**

The Sewage Handling and Disposal Appeal Review Board (the “Board”) met at 10:00 am on January 16, 2008, in the Main Conference Room of the Madison Building, 109 Governor Street, Richmond, Virginia. Board members present were Steven Thomas (Chairperson), Jeanne Hockaday, Danny Hatch, Amy Pemberton, and Gerald Johnson. Assistant Attorney General John Kotvas, Counsel to the Board, and Patty Britton, Acting Secretary to the Board, also attended.

The meeting was called to order at 10:08 am, by the Chairman, Mr. Thomas. The roll call was made and a quorum was declared with the then 4 members present. Ms. Hockaday, who arrived at 10:13 am, was the fifth member. Mr. Thomas called the meeting to order and then proceeded through the standard docket script.

One appeal was on the docket for consideration by the Board. The appeal heard before the Board was the case of Leonard & Loretta Allese, Lot 4, Pinewood Estates, (1200 Avatar Drive) Powhatan County, 23139. The hearing opened with Daniel “Duke” Price, presenting the Department’s case. Mr. Leonard Allese represented himself.

Both Mr. Price and Mr. Allese presented their case to the Board. Mr. John Thresher, Environmental Health Specialist with Powhatan County and Mr. Gary Ranger, former Soil Scientist with Powhatan County were questioned as witnesses.

Closing statements and findings of fact were presented by both parties.

After hearing the presentations and evidence in the Allese appeal, at 11:16 am, Mr. Thomas moved that the Board go into closed session pursuant to Section 2.2-3711.A.7 of the *Code of Virginia* for consultation with legal counsel pertaining to actual or probable litigations, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel. Mr. Hatch seconded the motion. The motion carried unanimously.

Upon reconvening the hearings at 11:45 am, Mr. Thomas moved that the Board end its closed session and certify that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from opening meeting requirements by Virginia law were discussed in the closed session to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board. A vote was taken and the motion carried unanimously.

Several Board members discussed that their decision was due to two items. Number one, that since actual repairs have not been started nor have price quotes been obtained, they had no way to access a monetary award. Number two, that the law was very specific as it related to failure within 3-years following construction and reporting within 1-year following failure. The Board ruled that Mr. Allese failed to meet these filing deadlines.

Ms. Hockaday moved to uphold the ruling of the Health Department Commissioner.

Mr. Hatch seconded the motion.

A vote was taken and the motion passed 5-0 in favor. The motion carried.

All business was concluded at 11:50 am

Patty Britton
Acting Secretary to the Board

c: Jack Kotvas, Assistant Attorney General & Board Counsel
Steve Thomas
Robert W. Hicks
Donald H. Alexander
Duke Price
Nelson Daniel, VDH Counsel