

Adopted



Eligibility of Overlap Parcels to Receive Pine Barrens Credits

Remote Commission Meeting of April 21, 2021

Present:

Dorian Dale for the Suffolk County Executive
Supervisor Edward P. Romaine Brookhaven Town Supervisor
Supervisor Yvette Aguiar Riverhead Town Supervisor
Marty Shea for Southampton Town Supervisor

Whereas, certain parcels in the Central Pine Barrens are affected by a title condition commonly referred to as an overlap condition, and

Whereas, an overlap condition occurs if more than one person can assert fee ownership of the same or a portion of the same parcel of land and the source of the competing title derives from separate chains of title, (i.e., the claims “overlap” each other), and

Whereas, overlap conditions were not created or caused by the Commission and in most instances predate the creation of the Commission in 1993, and

Whereas, a Letter of Interpretation may be issued for a parcel affected by an overlap condition and if issued will inform the Letter’s recipient of the condition and state the recipient must resolve the condition to the Commission’s satisfaction before Pine Barrens Credits may be issued for the parcel, and

Whereas, New York Real Property Actions and Proceedings Law provides a mechanism for resolving title disputes, and

Whereas, the Commission currently requires an owner of a parcel applying for Pine Barrens Credits to procure at its own cost and expense title insurance insuring the Commission as the holder of a conservation easement on the parcel as condition for being issued PBCs, and

Whereas, an owner of a parcel affected by an overlap condition that was issued a Letter of Interpretation prior to December 31, 2018 may receive Pine Barrens Credits for the parcel if the owner provides the Commission title insurance affirmatively insuring the Commission as the holder of a conservation easement on the parcel, and

Whereas, the Commission seeks to provide guidance for resolving title overlap conditions,

Now, therefore be it

Resolved, a parcel affected by an overlap condition shall not be eligible to receive Pine Barrens Credits unless the owner resolves to the Commission’s satisfaction, at its own cost and expense, the parcel’s overlap condition, and be it further

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Resolved, a person may resolve an overlap condition through the final non-appealable disposition of an action under the Real Property Actions and Proceedings Law among all parties with a putative interest in the parcel, and be it further

Resolved, a proffer of a title insurance policy affirmatively insuring the Commission against a title claim based on an overlap condition shall not be sufficient to establish satisfactory title to a parcel affected by an overlap condition, and be it further

Resolved, those owners of parcels affected by an overlap condition for which a Letter of Interpretation was issued prior to December 31, 2018 shall have until July 30, 2021 to resolve the overlap condition under the Commission's prior policy.

Resolved, this Policy shall take immediate effect.

Motion by: Mr. Romaine

Second by: Mr. Shea

Ayes: 4 (Mr. Dale, Mr. Romaine, Ms. Aguiar, Mr. Shea)

Abstentions: 0

Nays: 0

Absent: 1 New York State Governor's Representative