

DUTCHESS COUNTY DEPARTMENT OF
BEHAVIORAL & COMMUNITY HEALTH

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In the Matter of the Violations of Part 5, Section 5-1.72(b), Section 5-1.71(b) and Part 17 of
the New York State Sanitary Code and Articles 21 and 23 of the Dutchess County Sanitary
Code, by:

Michael Robilotta

**COMMISSIONER'S
ORDER**

Respondent.

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In the Matter of Cooper Road Trailer Park located in the Town of Wappinger, for failure to
obtain the services of a certified operator, for failure to exercise due care and diligence in the
operation and maintenance of the water system, and for failure to provide water of adequate
quantity and quality.

WHEREAS Cooper Road Trailer Park, 121 Cooper Road, in the Town of Wappinger
constitutes a Mobile Home Park as defined in Part 17 of the New York State Sanitary Code
and Article 23 of the Dutchess County Sanitary Code.

WHEREAS Part 17 of the New York State Sanitary Code and Article 23 of the
Dutchess County Sanitary Code require that a Mobile Home Park operator obtain a permit to
operate the Mobile Home Park.

WHEREAS Michael Robilotta, hereinafter referred to and designated as the
Respondent, is the responsible person for Cooper Road Trailer Park.

WHEREAS a Commissioner's Order directed to the Respondent dated September 9,
2019 required that repairs to the public water supply serving Cooper Road Trailer Park be
completed by September 13, 2019.

WHEREAS the repairs to the public water supply have not been made, constituting
violations of Subpart 5-1 and Part 17 of the New York State Sanitary Code, Articles 21 and 23
of the Dutchess County Sanitary Code and the Commissioner's Order dated September 9, 2019.

WHEREAS the failure of the Respondent to comply with Subpart 5-1 and Part 17 of
the New York State Sanitary Code, Articles 21 and 23 of the Dutchess County Sanitary Code
and the September 9, 2019 Commissioner's Order has resulted in a Public Health Hazard for
the mobile home park's residents.

WHEREAS pursuant to Article 23.4(E) of the Dutchess County Sanitary Code, "A
permit may be revoked by the permit-issuing official if he finds that the mobile home
park for which the permit was issued is maintained, operated or occupied in violation

September 25, 2019

of this Article. A permit shall also be revoked upon request of the permittee or upon abandonment of operation.”

WHEREAS an informal hearing was scheduled for Wednesday, September 18, 2019 at 10 AM at the Dutchess County Department of Community and Behavioral Health. Respondent has been personally served with NOTICE of this informal hearing. The Respondent did not appear.

WHEREAS a formal hearing was scheduled for Monday, September 23, 2019 at 10 AM at the Dutchess County Department of Behavioral and Community Health. Respondent has been personally served with this NOTICE of this Formal Hearing. The Respondent did not appear.

WHEREAS the permits issued to the Respondent to operate the Mobile Home Park and the Public Water Supply at Cooper Road Trailer Park are rescinded, Respondent having been notified by Dutchess County Commissioner of Health Order issued and served upon Respondent on September 9, 2019 that Respondent must obtain a Public Water Supply system operator by September 13, 2019, and Respondent having failed to do so.

THEREFORE, pursuant to Sections 2.5, 21.4(B), and 21.4(D) of the Dutchess County Sanitary Code, and pursuant to NY Public Health Law § 1305, the Commissioner of Health exercises emergency powers granted to him as stated below:

2.5 “The Commissioner may authorize necessary action to alleviate emergencies and/or public nuisances in the event that the owner, lessee or occupant of any premises fails to respond to a direction of the Commissioner, or said direction cannot, after due diligence, be served; whenever it is determined that an emergency exists and there is a reasonable danger to life or health”,

21.4(B) “Whenever the Commissioner finds that any dwelling constitutes a hazard to the health and safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested, lacking the facilities required by this Article, or constitutes a nuisance or condition detrimental to life or health, he shall designate such dwelling unfit for human habitation, order the dwelling vacated and shall cause to be posted on the main entrance of any dwelling so vacated a placard with the following statement or equivalent language: "USE OF THIS BUILDING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL." If the owner fails to comply with an Order issued by the Commissioner to bring the dwelling into compliance with the requirements of this Article within a reasonable time, the Commissioner may order such dwelling to be removed or demolished as provided for by applicable State law and laws and

regulations of the Town, Village, City or County having jurisdiction. The provisions of this Section are applicable also to unoccupied dwelling units and the owners thereof shall be required to comply.”

The Dutchess County Sanitary Code defines “Unfit for Human Habitation” at DC San Code Section 21.4(B) as, among other things, “lacking the facilities required by [the sanitary code].

The DC San Code Section 21.7(B)(1) goes on to require that a dwelling be “properly connected to a water supply system which is approved by the Department and which provides at all times an adequate amount of heated and unheated running water under adequate pressure and which is connected to a sewer system approved by the Department...”

The dwellings at Cooper Road Trailer Park are not connected to a water supply system currently approved by the Dutchess County Department of Behavioral and Community Health.

21.4(D) “If the owner, operator, agent or occupant of any premises whereon or wherein a nuisance or condition detrimental to life or health exists fails to abate such nuisance or condition detrimental to life or health, after the service of the Order or Orders herein provided for, within a reasonable time or within the period provided for in the Order, the Commissioner or his duly authorized representative may enter upon the premises to which such Order or Orders relate and suppress or remove such nuisance or condition, upon compliance with appropriate statute.”

§ 1305. Nuisances; abatement by local boards of health

1. The owners, agents and occupants of any premises shall permit sanitary examinations and inspections to be made pursuant to the provisions of this article.

2. If the owner or occupant of any premises whereon any nuisance or condition deemed to be detrimental to the public health exists or the cause of the existence elsewhere, fails to comply with any order or regulation of any local board or health officer having the power of a local board of health for the suppression and removal of any such nuisance or other matter, in the judgment of the board or health officer detrimental to the public health, made, served or posted as required in this article, such board or its agents or employees may enter upon the premises to which such order or regulation relates, and suppress or remove such nuisance or other matter.

It is hereby ORDERED:

September 25, 2019

- 1) THAT New York Public Health Law § 12(1) entitled “Violations of health laws or regulations; penalties and injunctions” provides that “any person who violates, disobeys or disregards any term or provision of [the Public Health Law] or of any lawful notice, order or regulation pursuant thereto ... shall be liable... for a civil penalty of not to exceed two thousand dollars for every such violation.”
- 2) THAT Dutchess County Sanitary Code Section 4.14(A) entitled “Administrative penalties for violation” provides that “Any person who violates, disobeys or disregards the terms of provisions of any lawful notice, order or regulation of this Code or the State Sanitary Code shall be subject to the imposition by the Commissioner of a civil penalty not to exceed one thousand dollars (\$1000.00) for each single violation or failure or omission to act; except where the Public Health Law provides a different maximum penalty for every such violation.”
- 3) THAT pursuant to Dutchess County Sanitary Code Section 4.14(E) “Each day or a part of a day on which a violation or failure continues shall constitute a separate violation.”
- 4) THAT the previously issued Water Advisory remains in effect.
- 5) THAT the Dutchess County Water and Wastewater Authority as the authorized representative of the Dutchess County Commissioner of Health is hereby empowered pursuant to New York Public Health Law Section 1305(2) to enter the Cooper Road Trailer Park property to evaluate, operate, secure, and make any emergency repairs to the water supply system until further notice.
- 6) THAT Pursuant to New York Public Health Law Section 1306(1) Respondent shall be charged for all expenses incurred to evaluate, operate, secure, and make emergency repairs to the water supply system including assessing liens to property.
- 7) THAT requirement to placard the trailers immediately “Unfit for Human Habitation” and to vacate the trailers by October 15, 2019 has been rescinded until further notice.
- 8) THAT the Respondent is assessed an administrative penalty of One Hundred Thirty-Six Thousand Five Hundred Dollars (\$136,500).
- 9) THAT the Dutchess County Department of Behavioral and Community Health, and its authorized agent, are hereby authorized to take such steps necessary to rectify the public health nuisance and condition detrimental to Public Health.
- 10) THAT this matter be referred to the Dutchess County District Attorney with a recommendation that Respondent be prosecuted for “willful violation of health laws” pursuant to NY Public Health Law Section 12-b as well as such other criminal charges that the District Attorney deems proper.

Dated: September 25, 2019
Poughkeepsie NY

A handwritten signature in blue ink that reads "A. Vaidian MD MPH". The signature is written in a cursive style and is positioned above a horizontal line.

A.K. Vaidian, MD, MPH
Commissioner of Health
Dutchess County Department of

September 25, 2019