



## Adirondack Park Agency

**LEILANI CRAFTS ULRICH**  
Chairwoman

**TERRY MARTINO**  
Executive Director

### **MEMORANDUM**

TO: Jim Townsend, Counsel

FROM: Sarah Reynolds, Associate Counsel

DATE: August 5, 2015

RE: **Legal Guidance, June – July 2015**

Please find attached summaries of the legal guidance given to staff between June and July 2015. I have included a list summarizing the guidance that codifies existing Agency law and practice, as well as a list summarizing new practices and interpretations. As possible, all legal guidance information is incorporated into public flyers, which are maintained on the Agency's website.

## Summaries of Existing Law/Agency Practice

### Wetland Subdivisions:

- A subdivision into sites cannot involve wetlands under 9 NYCRR §578.3(n).

### Guest Cottages:

- A structure can only constitute a guest cottage if the structure meets the regulatory definition and contains all of the dwelling unit amenities. A dwelling unit constructed before April 1, 1979, cannot be considered a guest cottage. A dwelling unit constructed since May 1, 2002, constitutes a guest cottage if it meets the current definition. A dwelling unit constructed between 1979 and 2002 may constitute a guest cottage, depending on the specifics of the property and the structure's use.

### Hunting and Fishing Cabins:

- A structure can only constitute a hunting and fishing cabin if the structure meets the regulatory definition and contains all of the dwelling unit amenities. A dwelling unit constructed before April 1, 1979, may be considered a hunting and fishing cabin if the structure was serviced by a pit privy and had no pressurized plumbing. A dwelling unit constructed since December 31, 2008, constitutes a hunting and fishing cabin if it meets the current definition. A dwelling unit constructed between 1979 and 2009 may constitute a hunting and fishing cabin, depending on the specifics of the property and the structure's use.

### Accessory Structures:

- All structures are considered accessory structures unless they are listed under the principal building definition in the APA Act or meet the narrow motor vehicle exception. Accessory structures are subject to the shoreline setback restrictions. Permitting jurisdiction does not usually depend on whether a structure is considered accessory.

## Summaries of New Guidance

### Docks:

- A structure containing raised elements, including railings, can constitute a dock if no raised element is higher than 48 inches above the flooring surface and the raised elements do not prevent the structure from being used for swimming or accessing watercraft.

### Agricultural Use Dwellings:

- No Agency permit is required under the APA Act or Rivers Act for the construction of a single family dwelling, mobile home, or multiple family dwelling to house persons working for an agricultural use when: 1) the dwellings and agricultural use are located in an agricultural district under the Agriculture and Markets Law; or 2) the agricultural use is occurring pursuant to an opinion issued by the Department of Agriculture and Markets that the use is “agricultural in nature.”