

Village of Montebello

One Montebello Road
Montebello, New York 10901

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Mayor
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JOAN WILL

Village Attorney
WARREN E. BERBIT

Assistant Village Attorney
ALYSE TERHUNE

July 2, 2021

Dear Montebello Residents:


The Village has always taken the concerns of its residents and rights of its property owners seriously. The change of ownership of 4 Emerald Lane is no different.

As shown by the enclosed Memorandum from the Village's attorneys, herewith being providing to the public in the interest of transparency, this was not a simple or straight forward issue, especially given the fact that the premises have been used by a group home of some sort since before the Village was incorporated in 1986. It took the combined efforts of all of our counsel to review the facts and applicable law to reach the legal conclusion that under our Zoning Code, a special use permit is now required.

Our Building Inspector rationally concluded that the nature of the use did not change upon the purchase of the residence by Rockland Recovery Homes, Inc. From a land use standpoint, the only difference is the approval authority. The prior residence fell under what is commonly referred to as the Padavan Law, or Section 41.34 of the New York State Mental Hygiene Law. Now, it falls within the definition of "Family and Group Care Facility (Non-Padavan)," which, as noted, requires a special use permit in the RR-50 Zoning District under our Zoning Code.

The public will be fully informed and will have a right to participate should a special permit application be made with respect to the use of 4 Emerald Lane. Please see our Village website for upcoming meetings.




Sincerely,



Lance N. Millman
Mayor

cc: Board of Trustees
Joan Will, Village Clerk – Treasurer
Warren E. Berbit, Esq., Village Attorney
Lawrence Picarello, Village Building Inspector
Alyse D. Terhune, Esq., Assistant Village Attorney
Jody Cross, Esq. Special Land Use Counsel

To: Mayor Lance Millman & the Village Board of Trustees

From: Warren E. Berbit, Esq., Village Attorney 
Alyse D. Terhune, Esq., Assistant Village Attorney 
Jody T. Cross, Esq., Special Land Use Counsel 

Date: July 2, 2021

Re: Rockland Recovery Homes, Inc., 4 Emerald Lane, Montebello, NY

Upon learning of the ownership change at 4 Emerald Lane, the Village requested that Village counsel review the facts and the Village Zoning Code to determine whether the use of the premises by Rockland Recovery Homes Inc. ("RRH") is permitted in the RR-50 Zoning District.

Based upon the facts presented, including inspections of the premises by the Village Building Inspector, Village Code Enforcement Officer, and Village Fire Inspector, it appears that the residents of RRH live essentially as a family unit. The law in New York not only permits, but encourages these types of uses in residential districts. However, it is the opinion of counsel that although the approval process for the prior group home – which was classified as a community residential facility under Section 41.34 of the New York State Mental Hygiene Law – required the Village to treat the residence as a single-family home for purposes of zoning, the current group home *does not* fall under the purview of Section 41.34. It instead falls under the definition in the Village Zoning Code of "Family and Group Care Facility (Non-Padavan)." Such uses are permitted by special permit in the RR-50 Zoning District. As the Village is well-aware, a use permitted by special permit is one which has been deemed to be in harmony with the general zoning plan of the Village and has been determined that it would not adversely affect the neighborhood in which it is permitted. However, the applicant *must* demonstrate compliance with the generally applicable special permit criteria set forth in the Village Zoning Code, including that the Planning Board may impose any reasonable conditions related to the use.

Accordingly, while the use of 4 Emerald Lane by RRH is permitted, it is subject to review and approval of a special use permit by the Village Planning Board. It is, therefore, the further opinion of counsel that since the use is permitted only by special permit in the RR-50 Zoning District, RRH must immediately apply for – and diligently pursue – the necessary special use permit for a Family and Group Care Facility (Non-Padavan), and submit to the Planning Board's review of its application at a public hearing at which interested stakeholders would have the opportunity to be heard.