

August 6, 2014

Subject: Letter From Girvin & Ferlazzo, PC regarding mineral rights to properties at Loon Lake

Dear Loon Lake Homeowners:

If you have received a letter from Girvin & Ferlazzo, PC regarding their claim to mineral rights on your property at Loon Lake, we would like to hear from you so that we may establish a contact list of affected homeowners and assure the free flow of information as we receive it. Email would be the most effective method of communication so you receive everything in writing. Please email us at mineralrights@loonlakehoa.org and send us as much of your contact information as possible including your name, email address, phone number, home address, Loon Lake address, your Franklin County Tax Map Parcel number, which is available from the letter you received from Girvin & Ferlazzo, PC or from your Franklin County tax bill. If you do not use email, you can call 518-891-3273.

We are not lawyers and cannot offer legal advice as to how you should handle this issue; however, we can relate the facts as we understand them at this time. Please use caution when dealing with these individuals. **CAVEAT EMPTOR!**

The "Facts"

1. The mineral rights exclusion does not appear in any Loon Lake property deeds that I am currently aware of (please advise if your deed does include the mineral rights exclusion).
2. The letter sent by Girvin & Ferlazzo, PC for their client Champlain Gas and Oil, LLC does nothing to prove that they in fact have a valid deed to the mineral rights under our properties. In fact, the Title Chain Summary raises issues about the legitimacy of the claim. The title trail indicates that the LTV Steel conveyed the deed to High Peaks Sand, Gravel, and Mineral, LLC in 2011. LTV Steel did not exist in 2011, having filed for bankruptcy in 2000 with all assets transferred to International Steel Group in 2002. Since that time, through a series of acquisitions and mergers, the assets of LTV Steel have been transferred several times. It is not clear how the mineral rights could have been deeded to Champlain Gas and Oil from an entity (LTV Steel) that did not exist at the time of transfer. I confronted Girvin & Ferlazzo, PC with this information and requested additional information, including copies of the purported deeds and a map of No. 216, Township No.9, Old Military Tract which supposedly includes our properties, to verify the validity of Champlain's ownership of the mineral rights. This would seem to be a straightforward request since they are offering to sell me a deed, but this was the response I received:

" I have spoken to my client and the title insurance company which has assisted us in this matter, Mountain Abstract- Tom Magee. While you have the choice of conducting your own search of public records that confirm ownership or purchasing an abstract, Mr Magee advises that title insurance is available for \$405 to confirm that the substance of my letter is accurate as to the mineral rights involved. You are , of course , not under any obligation to purchase these rights and you have every right to maintain the status quo. However, you seemed concerned that the legal conclusions were unsupported and I believe the offer by Mountain Abstract to insure title to the mineral rights if conveyed to you shows the legitimacy of the issues involved. I will assume

you have no interest in pursuing these negotiations unless you contact me. I will not contact you again unless you request me to. Have a nice summer. Salvatore D. Ferlazzo, Esq."

So, they are unwilling to prove ownership of the deed, but we are free to buy back the mineral rights and then we can buy Title Insurance to be sure that they have a valid deed that they are selling us. Something does not make sense here.

3. The letter from Girvin and Ferlazzo states "*Girvin & Ferlazzo, PC has been retained as attorneys for Champlain Gas & Oil LLC, to bring an action in the Supreme Court of the State of New York in Franklin County, pursuant to Article 30 of the New York Civil Practice Laws and Rules for a declaratory judgment determining its rights and responsibilities concerning the ownership, interest and title to certain above cited real property, at which you own surface rights, in the County of Franklin, State of New York.*"

This suggests that Champlain Gas & Oil needs the court to award them the title to the mineral rights. This is common practice if they have a "Quit Claim Deed" where the title transfer is not supported by the actual chain of title. This scenario is speculation at this point, but would fit with the fact that LTV Steel no longer exists. However, if this is the case, it would appear that Champlain Gas & Oil does not yet have a valid warranty deed that can be transferred to Loon Lake homeowners.

4. Both corporations who have purportedly had title since LTV Steel, High Peaks Sand, Gravel, & Mineral, LLC and Champlain Gas & Oil, LLC are registered to the same individual at a residential address in Lake George, NY. These corporations are registered to Mr. Keith van Buskirk, a real estate professional, who resides at 350 Flat Rock Road, Lake George, NY 12845. His phone number is 518-225-3285 and his email is keithvb63@hotmail.com. High Peaks Sand, Gravel, & Mineral, LLC was incorporated 12/20/2010, less than 3 months before the purported transfer of the LTV Steel deed was executed March 16, 2011. Champlain Gas & Oil, LLC was incorporated 4/13/2011, just 9 days before the purported deed was transferred from High Peaks on April 22, 2011. Both deeds were recorded in the Franklin County Clerk's Office on the same day: May 3, 2011. This leads me to believe that these corporations are simply shell corporations, and not actual mining companies as the entities titles suggest.
5. It is important to note that the deed to the mineral rights does not permit mining from your property, only mining under your property. Anyone wishing to mine would have to secure other property in the vicinity of your property to access the minerals underground. This would be cost prohibitive for the foreseeable future.
6. As Tom Bartiss points out, the geology of our properties is not conducive to underground mining: the water table is high since the properties surround a lake and the soil type is dominant to Haplorthods, which fall under Glacial Outwash and Deltic sand. This, again, would make mining these properties cost prohibitive.
7. Finally, it is highly doubtful that the Adirondack Park Agency would ever permit mining so close to the lake and it's fragile environment. The preservation the park is specified in the New York State Constitution.

So those are the "facts" as we know them. A trip to Malone to view the suspect deed from LTV Steel and the map of No. 216, Township No.9, Old Military Tract seems to be in order as this would shed more light on the validity of the deed. As mentioned above, if you received this letter please email us at

mineralrights@loonlakehoa.org and we will create a database of affected parties and an email list for any updates. Again, please use caution when dealing with these individuals. **CAVEAT EMPTOR!**