

Homeowner files \$80G lawsuit against Southampton Town over septic system install

<https://www.newsday.com/long-island/suffolk/septic-system-lawsuit-certificate-of-occupancy-nitrogen-1.47826756>



By Vera Chinese

vera.chinese@newsday.com

[@VeraChinese](https://twitter.com/VeraChinese)

Updated August 6, 2020 4:57 PM

Donald Woods stands by the septic system in front of his Southampton home that he says he was erroneously told he needed to install to bring the rental property up to code. Credit: Randee Daddona

A Southampton homeowner is suing Southampton Town after he said an error forced him to lay out more than \$60,000 on a new nitrogen-reducing septic system he wasn't legally required to install.

Donald Woods, a Santa Monica, California-based attorney who has owned the 1,700-square-foot home since 2003, said the town told him in 2017 that the property's 1961 certificate of occupancy was not valid and he could not reapply for a rental permit. He said he was told a building permit was never obtained when the second story was built in the mid-1960s.

Woods said he brought the home up to code, but the process necessitated installing an innovative advanced nitrogen-reducing septic system — which was added in 2019 — because of its proximity to Big Fresh Pond. Southampton Town requires the systems, which are intended to reduce the flow of nitrogen to the aquifers, for properties in high-priority areas that seek to add 25% of living space or more to a home.

“I’ve never heard of them. Certainly not for a little Levittown [style] house,” said Woods, who added he uses the property for rental income. “It seemed ridiculous to me.”

A neighbor curious about the construction asked about the project, and Woods said he relayed what the town had said. The neighbor said he doubted the previous homeowner would not have obtained a building permit and suggested Woods take another look at the issue.

Woods said he looked through his building department file and said he quickly found that all the proper documents were issued in 1965.

“In less than one minute I found the building permit for the second floor and the CO,” he said.

When Woods brought the issue up with the former chief building inspector, Michael Benincasa, he said he was told he was right and that the town erred in requiring him to bring the property up to code, according to the lawsuit electronically filed June 28 in state Supreme Court.

Woods said his income exceeds the \$1 million limit for a Southampton Town septic system rebate program, but he did qualify for and receive \$20,000 in state and Suffolk County rebates. Woods in an August 2019 claim filed with the town said he would drop the matter if Southampton issued a waiver and granted him the maximum \$20,000 town rebate.

Woods filed the lawsuit after nearly a year passed without the issue being resolved. He is seeking \$80,000 in damages from the town, half of which he attributes to the cost to install the system after the rebates and the other half in lost rental income.

In an email, town attorney James Burke said he has been in contact with Woods and that the town had already been considering eliminating the income limitation. The town has issued 122 rebates since the program began in 2017, and Councilman John Bouvier said he plans to sponsor such legislation to further incentivize installing the systems.

“If you have the ability to put [in] a new system that substantially reduces nitrogen contribution, you want to do that,” Bouvier said.