

Carson

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

Re: Quechee Lakes Corporation
Land Use Permit #3W0364-1A-EB

MEMORANDUM OF DECISION AND ORDER

This decision, dated August 13, 1991, pertains to a motion to reconsider a memorandum of decision issued by the Environmental Board on July 19. The motion was filed by Ridge Condominiums, Inc. (RCI) on July 29. The Board deliberated on August 8 and made the following decisions:

1. The Board denies the motion.

In the motion, RCI requests reconsideration and a hearing thereon. At such a hearing, it wants to provide testimony concerning its proposed implementation plans and to cross-examine witnesses.

Board Rule 31(A), concerning motions for **reconsideration**, allows such motions within 30 days of decision and states that holding a hearing on such motions is **discretionary**.

The Board declines to reconsider or to exercise its discretion to hear testimony concerning **RCI's** implementation plans for four reasons. First, the Board believes its July 19 decision is sound and does not need reconsideration.

Second, RCI did not request a hearing on these plans prior to the Board's July 19 decision.

Third, the Board held extensive hearings on this matter in 1985 and 1986 and reached a decision dated February 3, 1987 which was upheld by the Vermont Supreme Court. Following that affirmance, the Board reviewed implementation plans submitted by RCI and reached a decision on them after public comment and deliberation. There is no need for further hearings or other reconsideration.

Finally, to some extent **RCI's "implementation"** plans seek to amend the Board's 1987 order. This order required mitigation of impacts caused by violations of a **previously-issued** permit. To amend such an order now, after appeal and affirmance by the Supreme Court, would undermine the integrity of the prior proceedings in this matter as well as that of Act 250 in general.

In making its decision, the Board notes **RCI's** contentions that its members are unit owners **at the Quechee Ridge** development as to whom the current legal proceedings

10/1/91
253, M2

Quechee Lakes Corp.
Memorandum of Decision
L.U.P. #3W0364-1A-EB
Page 2

are "totally unexpected." The Board understands that RCI's members did not themselves construct the development in violation of permit requirements.

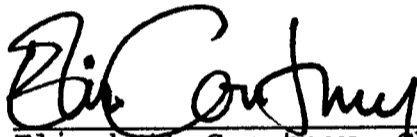
Nonetheless, the unit owners were placed on notice of the permit requirements by the recording of the permit in the land records pursuant to 10 V.S.A. § 6090(a) and Rule 33. Further, as successors in interest, the unit owners are bound by the conditions of those permits issued for the development. In re Quechee Lakes Corn., 154 Vt. 543, 551, n. 5 (1990).

2. The Board extends the three deadlines set forth in its July 19 decision each for a period of 60 days from the deadline set forth in that decision.

In its motion, RCI requests that, if the Board denies reconsideration, the Board extend the time for performance of the actions required by its July 19 decision. RCI contends that it needs to make a special assessment of its members in order to obtain funds for the required actions.

The Board therefore extends the deadlines in the July 19 order as follows: (a) the September 1, 1991 deadlines set forth in paragraphs 1 and 3 of said order are extended to October 31, 1991; and (b) the August 2, 1991 deadline set forth in paragraph 2 of said order is extended to October 1, 1991.

ENVIRONMENTAL BOARD



Elizabeth Courtney, Chair
Ferdinand Bongartz
Lixi Fortna
Samuel Lloyd
Steve E. Wright

quechee.dec (awpl)