

NRB - Comments

From: John McAlenney <johnmcalenney@gmail.com>
Sent: Wednesday, December 30, 2015 1:09 PM
To: NRB - Comments
Subject: Comment on Red Barn

Dear Natural Resources Board,

As you read the below, I think it is good to keep in mind the goal of the Enforcement Program:

The goal of the Enforcement Program of the Natural Resources Board is to address Act 250 violations across Vermont in a comprehensive, **fair**, and **evenhanded** manner in order to protect the environment, public health, and the integrity of the Act 250 program. Act 250 enforcement is also intended to **prevent any unfair economic advantage gained through violations**, and **deter repeated violations of Act 250**.

What has Red Barn Brewing done? Red Barn has undertaken renovations of an aging and largely unusable barn on the McMullen's personal property. The majority of the improvements have been made in less than a 500 sq. ft. area. The improvements have primarily been cosmetic changes including framing out a bar area. There has been no material adverse environmental impact.

Has Red Barn Brewing erred as relates to the requirements of Act 250? Yes. This is not being disputed and I fully agree that the permit should have been obtained prior to work being done. Red Barn is Peter and Jeremy's first attempt at starting a small business, and given this, it is not surprising that there have been small errors along the way. But what I can tell you is that this was not a deliberate evasion of regulations. Both Peter and Jeremy operate with the highest level of integrity and character and I know this unfortunate situation has proven to be educational for both of them.

Does the proposed penalty properly fit the infraction? I wholeheartedly believe No. When I read about the history of Act 250, my sense is that it was not created to stop Red Barn Brewing from making modest renovations to a barn on personal property. But was focused on large scale development which would have a material environmental and commercial impact. I think we all can agree that Red Barn does not have a material environmental or commercial footprint. As noted above, this was not deliberate and the lesson has been learned. There has not been any material environmental impact. I recognize that a monetary penalty might be unavoidable (although I believe a warning should be strongly considered), I ask that the size of the penalty be sensible given the circumstances of the case.

Why this concerns me as an investor of a Vermont based business? I live in CT and I am a minority owner in Red Barn Brewing. This is my first direct investment into a Vermont based company and frankly it's a concerning insight into the way Vermont is supporting, or in this case not supporting, its small businesses. The proposed fine will be debilitating to Red Barn Brewing, that is a fact. Its unclear to me why Vermont would want to kill a small business (in a burgeoning sector of its economy) before it has a chance to become operational. Has Red Barn's infractions been that egregious? This has been a good lesson for me when considering future investments in Vermont.

In conclusion, this experience has been hugely disappointing. I am disappointed in Vermont for having short-sighted legislation which would hinder the growth of its economy. I am disappointed that the enforcement of this legislation has not been properly thought through, specifically the severity of the infraction vs. the financial impact on the business. I am disappointed that Peter and Jeremy have had to waste countless hours trying to understand and worrying about the financial impact of Act 250. I am disappointed that the permitting requirements have delayed the project numerous months, which delays investment and future hiring, all things that will buoy the local economy. I ask that you look at this case in a fresh light and consider (i) the financial penalty vs. severity of infraction and (ii) the impact on local economy of stifling new small business development. I am hopeful the right outcome will be reached.

John McAlenney