

declaratory ruling procedure cannot be used as a means of collaterally attacking those decisions. The decision of the Executive Officer was not appealed by any party.

On July 7, 1987, Robert Cone requested the Commission to reconsider its 1985 decision not to accept an application unless the Association signs as co-applicant. Apparently the basis for the request to reconsider is that the Association refuses to sign the application until certain matters between Mr. Cone and the Association are resolved.

The Applicant agreed to the Commission's delaying a hearing in the matter until the same commissioners who made the 1985 decision were available. After a hearing on December 10, 1987, the Commission issued a decision on December 23 in which it declined to reconsider its decision to require the Association's signature on the application. The Applicant appeals from that decision.

Decision

The Board believes that the Commission did not have jurisdiction to reconsider its November 8, 1985 decision to require the Association to be co-applicants to the application. Board Rule 31 provides that a motion for reconsideration must be filed within 15 days from the date of the decision; the Applicant did not appeal that decision within 15 days. There are situations which would indicate that a later reconsideration may be warranted in the interest of fairness. In this case, for instance, if the relative property interests of the parties had changed since the 1985 decision so that the interests of the property owners were negligible, that change might warrant the Commission to alter its conclusion that the Association is a necessary co-applicant under Rule 10 (A). Because there was no such change in circumstances, the Board believes that the Commission did not have jurisdiction to reconsider a two-year-old decision. The Board will therefore dismiss the appeal and direct the District Coordinator not to accept an application without the signature of all the unit owners. 1

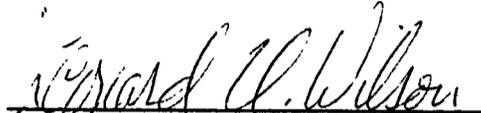
¹ Because the common land is owned by the individual unit **owners**, not the Association, the individual owners all need to sign the application.

Order

The appeal in this matter is hereby dismissed. The District Coordinator shall not accept an application for an amendment to Land Use Permit #1B0042 unless it is signed by all the unit owners in accordance with the Commission's decision of November 8, 1985.

Dated at Montpelier, Vermont this 3/sf day of March, 1988.

ENVIRONMENTAL BOARD


Leonard U. Wilson
Chairman

RCD016