

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

RE: Killington 43 Associates, Inc.
c/o A. Jay Kenlan, Esq.
Abell, Kenlan, Schwiebert & Hall
P.O. Box 578
Rutland, VT 05701

Findings of Fact, **Con-**
clusions of Law and Order
Amended Land Use Permit
#1R0522-8-EB

This decision pertains to an appeal filed with the Environmental Board (Board) on August 6, 1987 from the District #1 Environmental Commission's permit dated July 7, 1987. The permit authorizes the permittee to modify buildings #6 and 9 of the previously-approved Village Center, construct seven condominium units in Cluster D and twelve condominium units in Cluster E, and construct a sports center building with a restaurant, retail shops, swimming pool, and related facilities, all at "The Woods" off Killington Road in Sherburne, Vermont.

Acting Chairman Jan S. Eastman conducted a prehearing conference on September 1 and on September 16 the Board conducted a preliminary hearing. No parties other than the Permittee, represented by A. Jay Kenlan, Esq., appeared.

The Permittee appealed Condition #3 of the District Environmental Commission's permit that required installation of thermal curtains in the sports building because the condition was not supported by evidence in the record.

On September 16, the Permittee filed a motion to omit the condition requiring thermal curtains. Accompanying the motion was an affidavit from the architect for the project, stating that thermal curtains are not necessary because the windows in the sports building contain low-emissivity glass with an R-value of about 3, which compares favorably with thermal curtains.

The Board provided an opportunity to parties to respond to the Permittee's motion. The Board did not receive any responses. On September 30, 1987, the Board conducted a deliberative session. This matter is now ready for decision.

FINDINGS OF FACT

1. On July 7, 1987, the Commission issued a permit to the Permittee that authorized, among other things, construction of a sports center building with a swimming pool.

2. Condition #3 of the permit required the Permittee to equip all skylights in the sports building and the windows in the pool room of the sports building with thermal **certains** which must be closed at night during the winter months to conserve heat.
3. All glass in the sports building will be treated with low-emissivity ("**low-E**") coating to minimize the radiation of heat to the exterior. The R-value of the low-E coating is approximately 3.
4. Since low-E coating is in place 24 hours a day, its value in providing energy conservation is as much as thermal curtains that are used only at night.

CONCLUSIONS OF LAW

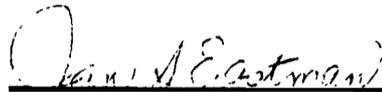
The uncontroverted evidence is that the use of low-E coating on the glass in the sports building will provide the maximum feasible energy conservation. The Board will therefore issue an amended land use permit that deletes the condition requiring thermal curtains.

ORDER

Land Use Permit Amendment #1R0522-8-EB is hereby issued in accordance with the Findings of Fact and Conclusions of Law herein. Jurisdiction over this matter is returned to the District #1 Environmental Commission.

Dated at Montpelier, Vermont this 3rd day of November, 1987.

ENVIRONMENTAL BOARD



Jan S. Eastman, Acting Chairman
Lawrence H. Bruce, Jr.
Elizabeth Courtney
Arthur Gibb
Samuel Lloyd
Roger N. Miller