

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

Re: Taft Corners Associates, Inc.
Application #4C0696-11-EB (Revocation)

DISMISSAL ORDER

This dismissal order pertains to a motion for revocation filed by the City of Burlington on October 7, 1993 pursuant to 10 V.S.A. § 6090(c) and Environmental Board Rule (EBR) 38. The motion was filed during the course an appeal of a permit amendment issued for the construction of two buildings consisting of approximately 114,513 and 132,500 square feet, to be used for retail and warehouse sales, in the Taft Corners Commercial and Industrial Park located in Williston.

The permit amendment is governed by a 1987 umbrella permit issued for the Park and a 1988 amendment to that umbrella permit. The revocation motion alleges violations of stipulations filed in connection with the- 1987 umbrella permit and the 1988 amendment.

On December 20, 1993, the Board issued a memorandum of decision (the Decision) concerning various matters in the then-ongoing appeal, #4C0696-11-EB (Remand). The Decision is incorporated by reference. The Decision contains an order which, in relevant part, provides as follows:

- 12. The City of Burlington's motion for revocation is adequate under Rule 38(A).
- 13. The Board will docket and hear the revocation proceeding separately from this remanded appeal.
- 14. *The revocation proceeding is recessed until 30 days after the issuance of the Board's final decision in this remanded appeal. No later than the end of that period, the City of Burlington shall file a request to re-activate the revocation proceeding or the proceeding will be dismissed.*

(Emphasis added.)

On July 29, 1994, the Board issued a final decision in the appeal: Land Use Permit Amendment #4C0696-11-EB and Findings of Fact and Conclusions Law #4C0696-11-EB (Remand). These documents are incorporated by reference.

Following timely motions to alter by Taft Corners Associates, Inc. and the Town of Williston, the Board on May 5, 1995 issued an altered final decision in the appeal: Land Use Permit Amendment #4C0696-11-EB (Revised) and Findings of Fact and Conclusions of Law #4C0696-11-EB (Revised). Along with

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the revised permit and findings, the Board issued a memorandum of decision. All of these documents are incorporated by reference.

Following further timely motions to alter, this time by the City and Williston Citizens for Responsible Growth (WCRG), the Board issued a memorandum of decision on June 16, 1995 stating that the Board will not entertain further consideration of the appeal and that the motions of the City and WCRG were denied. The June 16 memorandum of decision is incorporated by reference.

Based on the foregoing, under paragraph 14 of the Decision, the City's 30-day period to file a request to re-activate the revocation proceeding began on June 16, 1995 and, under EBR 6, ended on July 17, 1995. The City did not file a request to re-activate during that period.

On October 18, 1995, the Board received a letter from the City requesting that any dismissal of the motion be without prejudice.

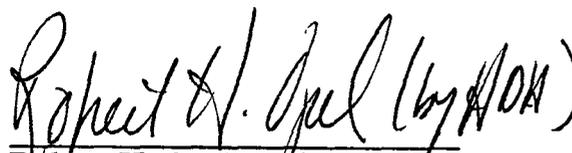
The Board deliberated on October 18, 1995 and voted unanimously as follows:

The revocation proceeding initiated by the City's motion filed October 7, 1993 is **DISMISSED WITHOUT PREJUDICE**.

This order does not pertain to any matters or documents other than the City's October 7, 1993 motion for revocation.

Dated at Montpelier, Vermont this 19th day of October, 1995.

ENVIRONMENTAL BOARD


Robert H. Opel, Acting Chair

Arthur Gibb
Samuel Lloyd
William Martinez
Anthony Thompson
Steve E. Wright

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