

**STATE OF VERMONT
SUPERIOR COURT – ENVIRONMENTAL DIVISION**

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

ASSURANCE OF DISCONTINUANCE

v.

CATAMOUNT – MALONE/
HINESBURG, LLC,
Respondent

Docket No.

VIOLATION

- I. Initiation of a material change to a permitted project without a permit amendment, in violation of Act 250 Rule 34(A).

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Catamount – Malone/Hinesburg, LLC (Respondent) enter into this Assurance of Discontinuance, and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Catamount-Malone/Hinesburg, LLC (Respondent) owns land subject to Land Use Permit 4C0528-11, as amended.
2. On or about July 24, 2012, Respondent submitted an application for a permit amendment to authorize the redevelopment of an existing 4,200 square foot building as a full-service restaurant and tavern, with a deck, walkways, rain garden and parking, and an additional tenant with ten employees to occupy 6,000 square feet of an existing building (the Project).
3. In or about September, 2012, Respondent stripped the existing building down to metal framing and installed new sheathing. This work continued through October 13, 2012.
4. Respondent commenced said construction prior to issuance of the permit amendment for the Project, on October 15, 2012.
5. By commencing construction on a material change to a permitted project without a permit amendment, Respondent violated Act 250 Rule 34(A).

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violations, the parties hereby agree as follows:

- A. Respondent shall comply with Land Use Permit No. 4C0528-11B, and any amendments thereto.
- B. No later than thirty days following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondent shall pay a civil penalty for the violations set forth herein, pursuant to 10 V.S.A. Ch. 201, in the amount of **\$3,000.00** (U.S. dollars), by check made payable to: **Treasurer, State of Vermont**.
- C. Within ten days of executing this Assurance, Respondent shall send a check in the amount of **\$10.00** (U.S. dollars), to pay the fee for recording a notice of this Assurance in the land records of the municipality where the Project is located, payable to: **Town of Hinesburg**.
- D. All payments required by this Assurance shall be sent to:

Denise Wheeler, Business Manager
Land Use Panel of the Natural Resources Board
National Life Records Center Building
National Life Drive
Montpelier, Vermont 05620-3201
- E. Respondent shall neither deduct, nor attempt to deduct, any payment, penalty, contribution, or other expenditure required by this Assurance from its state or federal taxes.
- F. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- G. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives.
- H. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Superior Court, Environmental Division. When so entered by the Superior Court, Environmental Division, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- I. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an


order issued by the Superior Court, Environmental Division. Representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such representations shall have no legal force or effect.

- J. Pursuant to 10 V.S.A. § 8007(d), Respondent shall not be liable for any additional civil or criminal penalties with respect to the specific facts described herein, provided that Respondent fully complies with the agreements set forth above.
- K. When this Assurance has been entered as a judicial order pursuant to 10 V.S.A § 8007(c), violation of any provision of this Assurance shall be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.
- L. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

SIGNATURES


The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I, Doug M. Peade, the undersigned, hereby state under oath that I am duly authorized to enter into this Assurance of Discontinuance on behalf of Catamount – Malone/Hinesburg, LLC.

CATAMOUNT – MALONE/
HINESBURG, LLC

By: 
Doug M. Peade
(print name)

BE IT REMEMBERED that on the 14 day of November, 2012, personally appeared Douglas C. Peade, signer of the foregoing instrument, who is known to me or who satisfactorily established his/her identity to me and acknowledged the same to be his/her free act and deed.

Before me,


Notary Public
My Commission Expires: 2-10-2015

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

DATED at Montpelier, Vermont, this 19th day of December, 2012.

LAND USE PANEL

By:



Ronald A. Shems, Chair