

STATE OF VERMONT  
ENVIRONMENTAL BOARD

RE: DEPT. OF FORESTS AND PARKS  
KNIGHT POINT STATE PARK  
Land Use Permit No. 6G0062

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW  
AND ORDER

Declaratory Ruling #77  
for reference only.

The above matter came before the Environmental Board on the appeal of the Agency of Environmental Conservation from a condition imposed upon it in Land Use Permit Amendment #6G0062 (5/18/76) that it compensate the Town of North Hero for tuition and transportation costs incurred by it for secondary school students residing at the Knight Point State Park.

The Department of Forests and Parks within the Agency of Environmental Conservation filed with District #6 Environmental Commission an application for an Act 250 permit for a State park facility on June 15, 1973. As a part of the application and attached thereto, the Department submitted statements under the title Satisfaction of Development Criteria (identified as Exhibit 2) wherein it anticipated issues under Act 250 criteria by stating facts and conclusions on which the Commission could take favorable action on the application. On the issue of impact on schools (Criterion (6)) the Department stated:

"As the park employees are seasonal personnel employed only during the summer months when school is not in session, there will be no effect upon the local schools. However, there is some possibility in the future of situating a permanent year-round park manager at the old Whittlesey place, which is scheduled for improvement as a residence.

If this possibility were to become a reality, and if the manager were a family man, there could be one or two children added to the school system."

On October 29, 1974 the Commission issued a permit #6G0062 based in part on the finding that:

"There will be no significant increase in the school age population in North Hero as a result of this project as shown by Exhibit 2." (Finding of Fact 8(a)).

As a condition of the permit the Commission specified:

"The proposed development shall be completed in accordance with all plans submitted as part of the application, specifically Exhibits 1-8 referred to in Finding of Fact #1 dated June 15, 1973."

Thereafter, North Hero received information that the Department intended to reassign to the park as a full time supervisor a Department employee with six school age children. The Town on March 23, 1976 petitioned the Board to determine whether this action constituted a violation of Condition 1 of the Land Use Permit by virtue of being contrary to the Commission's finding and Exhibit 2; the Board, by order of April 16, 1976, provided the Department 30 days to petition the Commission for an amended permit, findings, conclusions or conditions. The Department applied to the District Commission on April 19, 1976 to amend Exhibit 2 of its original application as follows:

Criterion (6) "Will not cause an unreasonable burden on the ability of a municipality to provide educational services."

The Department of Forests and Parks has reclassified one of its permanent employees as a Park Ranger, and plans to assign him as the resident full-time supervisor of Knight Point State Park. The employee is married and presently has six school age children. The remaining park employees will be temporary personnel employed only during the operating season and will not reside permanently at the Park. The applicant maintains that this will not cause an unreasonable burden on the ability of the municipality to provide educational services.

On May 18, 1976 the Commission issued a Land Use Permit Amendment with the condition:

Beginning on July 15, 1976 and on or before that date in each succeeding year, the Department of Forests and Parks shall compensate the Town of North Hero by means of direct payment in a dollar amount equal to the estimated tuition and transportation costs to be incurred during the ensuing school year for students residing at the Knight Point State Park and attending secondary educational facilities at the expense of the Town of North Hero. In lieu of direct financial compensation for secondary school tuition costs, the Department of Forests and Parks may substitute therefore, with the written concurrence of the Town of North Hero, alternative means of direct or indirect compensation.

Parties to an application for a permit have a right to rely upon material representations made by the applicant in the application as defining the nature and scope of the development during construction and term of operation; and once a permit has been issued it is reasonable to expect the permittee to conform to those representations unless circumstances or some intervening factor justify an amendment. In this case the Town had from the beginning, by virtue of the special tax relationship between it and the Department pursuant to 32 V.S.A., sections 3615 and 3657, a clear interest in the impact of the project on it under the provision of Criterion (6).

The Department in this instance made no showing over the objection of the Town, that the desired amendment in a specific and material representation in its original application regarding potential impact on North Hero regarding school services was motivated by any reason other than convenience.

CONCLUSION OF LAW AND ORDER


No grounds having been presented for the amendment to a material representation contained in the application relevant to impact on the ability of North Hero to provide educational services over the objection of the Town, it is hereby ordered:

1. The appeal of the Agency of Environmental Conservation is denied;
2. Land Use Permit No. 6G0062 of District #6 Environmental Commission, dated October 29, 1974, including all findings, conclusions and conditions, is herewith adopted by reference and made the permit of the Environmental Board.
3. Continuing jurisdiction over the development under Land Use Permit No. 6G0062 shall be in the District Environmental Commission and all subsequent petitions relevant to said permit shall be filed with the District Environmental Commission.

Dated at Montpelier, Vermont this 8th day of September, 1976.

ENVIRONMENTAL BOARD

By

  
Schuyler Jackson  
Chairman

Members participating in this decision: Schuyler Jackson,  
Dr. James W. Marvin, John D. Veller,  
Dwight E. Burnham, Sr.,  
William D. Countryman.  
Not in accord: Donald B. Sargent.