

VERMONT ENVIRONMENTAL BOARD

10 V.S.A., Chapter 151

RE: Edward Barber, Trustee, by
Lawrin P. Crispe, Esq.
Crispe & Crispe
P.O. Box 556
Brattleboro, VT 05301-0556

MEMORANDUM OF DECISION
Declaratory Ruling Request
#187

On June 10, 1987, the Environmental Board deliberated on the preliminary decision of the Board's Chairman Darby Bradley dated May 12, 1987, and on the written objections to the proposed decision filed by Thomas Swim on May 19 and the Town of Dover on May 25. The Board concluded that for the reasons stated in the Chairman's preliminary decision, the matter should be resolved through an Assurance of Discontinuance as proposed by Mr. Barber.

The Board notes that the issue raised by the Declaratory Ruling Request--namely, that an Act 250 permit is required for the Brook House Complex in Dover--could have arisen in the context of an enforcement proceeding. The owner of the Brook House Complex, Mr. Barber, as Trustee, has assured the Board that he will take steps to ensure that the parking lot across Route 100 will not be used by employees, customers or tenants in connection with the Complex, and has agreed to enter into an Assurance of Discontinuance to that effect. Insofar as the violation of an Assurance of Discontinuance subjects the owner to a potential fine of \$10,000 per day, the Board feels that there is adequate deterrence for any future violation and an adequate remedy should such a violation occur.

ORDER

The petition for a Declaratory Ruling is hereby dismissed. The Executive Officer of the Board is directed to prepare and circulate among the parties for comment a proposed Assurance of Discontinuance.

Dated at Montpelier, Vermont this 18th day of June, 1987.

ENVIRONMENTAL BOARD



Darby Bradley, Chairman
Ferdinand Bongartz
Lawrence H. Bruce, Jr.
Elizabeth Courtney
Jan S. Eastman
Arthur Gibb

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