

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

RE: Upper Valley Youth Services by DISMISSAL ORDER
John Storrs Stebbins, Esq. Declaratory Ruling #201
Stebbins, Bradley, Wood & Harvey
P.O. Box 382
Hanover, NH 03755

On April 22, 1988, the Hartland Planning Commission filed a petition for a declaratory ruling regarding whether the renovation of a single family residence into a group home requires an Act 250 permit. This petition was an appeal of Executive Officer Advisory Opinion #88-138 which determined that an Act 250 permit was not required because the renovation activities undertaken by Upper Valley Youth Services did not constitute "development."

A prehearing conference was held on July 15, 1988. At that time the Hartland Planning Commission reiterated its belief that Act 250 jurisdiction applies to the renovation, and adjoining landowner Charles Coon and a Neighborhood Committee sought party status to present their position that an Act 250 permit must be obtained. Mr. Coon and the Committee subsequently submitted statements of their interest and were admitted as parties to the proceedings.

At the prehearing conference, the participants agreed that they would stipulate to the facts so that an evidentiary hearing would not be required. They also agreed to file legal briefs on the issue of jurisdiction. In a Prehearing Conference Report and Order dated August 3, 1988, a schedule for filing the stipulation and briefs was established. This schedule required filing of the stipulation and initial briefs by September 2, 1988. No briefs were filed by September 2. However, on that date, an unsigned "stipulation" was received from Mr. Coon. On September 6, an identical unsigned "stipulation" was received from the Hartland Planning Commission.

On September 8, 1988, the Board issued a memorandum to all parties indicating that on or before September 21 the Board must receive initial briefs, as well as a stipulation signed by all the parties or a request for an evidentiary hearing. The memorandum set a due date for response briefs of October 7. The memorandum also stated: "This matter will be dismissed if a stipulation and briefs or a request for a hearing are not submitted by the above date [September 21]."

The Board has received no filings in this matter subsequent to its September 8 memorandum. Accordingly, the appeal of Executive Officer Advisory Opinion #88-138 is hereby dismissed.

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Dated at Montpelier, Vermont this 10th day of January,
1989.

ENVIRONMENTAL BOARD

By: *Leonard U. Wilson*
Leonard U. Wilson, Chairman

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