



10 V.S.A §8019 Civil Citation
Natural Resources Board

Citation Number: 2020_09 CIT
VC: NR117 2nd Violation

Respondent: BlackRock Construction, LLC; Ben Avery, Vice President of Development

Address: 68 Randall Street

City, State, Zip: South Burlington, VT 05452

Respondent committed the following acts in violation of Vermont Law, Statute, Rule, or Permit:

Violation Citation: Minor violation of Act 250, an Act 250 rule or an Act 250 Land Use Permit

See attached.

Town: Williston

Date: 10/30/2020

Penalties: If you plead ADMITTED or NO CONTEST, you may pay the waiver amount instead of appearing in court. If you plead DENIED and the State proves the violation, the penalty must be within the penalty range plus any court costs.

Penalty Range: Minimum \$ 450.00 Maximum \$ 2000.00 Waiver \$ 1200.00

Mailed to: Corporate Officer, Ben Avery, Vice President of Development

Mailing Address: 68 Randall Street

City, State, Zip: South Burlington, VT 05452

Date Mailed/Served: November 5, 2020 by U.S. Mail

NRB Compliance and Enforcement Officer Michaela Stickney

Signature: [Handwritten Signature]

Public Notice & Opportunity to Comment: I certify that a draft of this civil citation was posted for public notice and written comment for a period of 30 days. []

Comments were received and are attached []

No comments were received []

Service Members Civil Relief Act Affidavit: Under oath, I state Respondent is NOT on active duty in the U.S. armed forces because: Select

Select

Signature: _____

Signed and sworn at State of Vermont, County of _____, on _____, before me,

[Notary Stamp]

Notary Public State of Vermont

Printed Name _____

Commission No. _____

My Commission Expires _____

Respondent's Plea to this Civil Citation

Mark ("X") your plea: Admitted [] No Contest [] Denied []

Respondent or Corporate Officer Signature: _____ Date: _____

Mailing Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

Violation description

Land Use Permit #4C1315, Conditions 32 states: *The Permittees shall implement or cause to implement the following construction traffic circulation route:*

a. Ingress shall be from US Route 2 to South Ridge Road, turn left onto Metcalf Drive, right turn onto Goodrich Drive and right turn onto Metcalf Drive to the tract.

b. Egress shall be from the tract, left turn onto Metcalf Drive, right turn onto Harte Circle, right turn onto Lawnwood Drive, left turn onto Metcalf Drive and right turn onto Southridge Road, to US-Route 2.

c. No other means of construction traffic ingress or egress is allowable without prior written approval by the District Commission or District Coordinator, whichever is appropriate.

Land Use Permit #4C1315, Condition 33 states: *The Permittees shall install or cause to install traffic warning signs depicted in Exhibit #067 during construction activities.*

Location of violation: Northridge Development (under construction), Williston, Vermont

Date violation observed/occurred:

- Tuesday, October 13, 2020 - ~9:55am - Upon entering the Southridge Neighborhood from VT-Route 2, a loaded long-bed delivery truck turned from Metcalf Drive onto Lawnwood Drive, and then backed into the Northridge development access drive from the opposite direction than described in the permit (direct enforcement officer observation and photos).

GENERAL INFORMATION – KEEP THIS PAGE FOR REFERENCE

Background

You are charged with a civil violation within the jurisdiction of the Superior Court Environmental Division of Vermont *pursuant to 10 V.S.A. Section 8019*. The Environmental Division is designed to allow you to speak for yourself without an attorney, but you may hire an attorney at your own expense. The Environmental Division will not provide an attorney to you, and its staff will not provide legal advice to you. The Environmental Court does, however, offer a free legal clinic to provide legal assistance for those unable to afford an attorney. Please visit the following for more information: <https://www.vermontjudiciary.org/environmental/legal-services>

If you plead “Admitted” or “No Contest” to the alleged violation, then you may waive your right to appear in Court and pay the waiver amount.

If you plead “Denied” to the alleged violation, then you will be scheduled to appear in court at least once. A corporation must have an attorney or corporate officer (i.e. president, vice president) appear in court. A minor should be accompanied by a parent or legal guardian.

The trial is a summary hearing without a jury. You and the State may offer testimony and exhibits into evidence. All witnesses must appear in person and testify truthfully under oath. Written statements usually are excluded from the evidence.

The issuer of the citation will serve as the prosecutor, unless an attorney for the State is present to prosecute the case. The judge will not discuss the case with you or the prosecutor, except in Court at a hearing. The judge does not have authority to issue a 'warning,' even when leniency is appropriate. The decision to issue a warning, rather than file a citation, rests with the prosecutor.

The burden of proof is on the State to prove the violation by a preponderance of the evidence, which is defined as the violation is more likely than not to have occurred. If the State satisfies the burden of proof, then judgment will be entered against you. If the State fails to meet the burden of proof, the case will be dismissed.

Most decisions are delivered orally in Court at the end of the hearing, but some decisions are issued in writing and mailed to the parties. Occasionally, more than one hearing is required for the judge to reach a decision.

Plea and Payment

All pleadings must be sent to both the Environmental Division and the Natural Resources Board. All payments must be sent to the Natural Resources Board.

How to Plea

Admitted or No Contest

If you plead “Admitted” or “No Contest,” mark your plea and sign at the bottom of the citation. **Within 15 days of the date mailed/served on the citation, (1) send the plea to the Environmental Division and (2) send a copy of the plea along with payment of the waiver amount to the Natural Resources Board.** After the Environmental Division receives the plea, a judgment will be entered against you.

Denied

If you plead “Denied,” mark your plea and sign at the bottom of the citation. **Within 15 days of the date mailed/served on the citation, (1) send the plea to the Environmental Division and (2) send a copy of the plea to the Natural Resources Board.** The Environmental Division will then schedule a hearing.

YOU MUST DELIVER A PLEA WITHIN 15 DAYS, otherwise judgment will be entered against you by default and you will be liable for the assessed penalty.

How to Pay

Payments can be made via check.

Checks must be made payable to “State of Vermont” and sent to:

Natural Resources Board
10 Baldwin Street
Montpelier, VT 05620-3803

Failure to Pay and/or Correct the Violation

If judgment is entered against you and you fail to pay the penalty amount, and/or fail to correct the subject violation, your ability to obtain or operate under a Natural Resources Board permit may be affected, and additional enforcement action may be pursued.

Copying All Parties

Any other pleading, letter, motion, or other correspondence to the Environmental Division related to this civil citation must also be sent to the Natural Resources Board. The Environmental Division intends to digitally scan all written correspondence, therefore, all correspondence should be typed on white letter-sized paper (8 ½ in. by 11 in.) and signed in black or dark blue ink.

Appearance by Third Parties

Under state law (*10 V.S.A. Section 8020*), a third party may file a request with the Environmental Division to be heard on the sufficiency of the civil citation. If a request is filed, and the Environmental Division decides to allow the third party to appear, you will be notified and given the opportunity to respond.

Additional Enforcement Action

By issuing a civil citation, the issuing entity will not be able to seek an additional penalty for the violation specified in the citation if the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. However, the issuing entity may issue additional civil citations or take other enforcement action authorized by law when a violation is continuing or repeated. It may also bring an enforcement action to obtain injunctive relief or remediation, and may recover the costs of bringing that action and any economic benefit obtained as a result of the underlying violation as authorized by law.

Contact Information

The Environmental Division and the Natural Resources Board are open Monday through Friday, except state holidays, from 8:00 am to 4:30 pm.

Vermont Superior Court, Environmental Division
32 Cherry Street, 2nd Floor, Suite 303
Burlington, VT 05401

[phone] (802) 951-1740 [web] www.vermontjudiciary.org

Natural Resources Board
10 Baldwin Street
Montpelier, VT 05620-3803

[phone] (802) 828-3309 [email] NRB.Enforcement@vermont.gov
[web] nrb.vermont.gov/enforcement