

STATE OF VERMONT
ENVIRONMENTAL BOARD

PETITION OF JAMES AND BARBARA
BUCKLEY
APPLICATION NO. 5W0347.

DECLARATORY RULING #71
10 V.S.A. §6001(3) -
development: construc-
tion of improvements
(roads)

The above matter came before the Environmental Board for hearing on November 12, 1975 on the petition of James and Barbara Buckley for a ruling that a right-of-way associated with the proposed sale of parcels of land did not constitute a development within the meaning of 10 V.S.A., §6001(3) and the rules of the Environmental Board.

Although there are ambiguities with respect to some of the facts for the purposes of this ruling, the Board finds:

1. The petitioners intend to divide 110 acres of land off Town Road #5, Middlesex, Vermont into five parcels.
2. Access to the parcels will be over a preexisting fifty (50) foot right-of-way and logging road.
3. The petitioners do not plan to effect any physical change to the land with respect to the establishment or location of the right-of-way. Any physical change to the land to improve the right-of-way will be the responsibility of the purchasers of parcels or their successors. The petitioners after sale of the parcels will retain no interest in the parcels or the right-of-way. No contractual or other arrangement exists or will exist between the petitioners and purchasers of the parcels regarding construction, maintenance or use of a road access to the parcels.

4. The right-of-way is not presently useable by conventional automobiles and, therefore, if any purchaser of a parcel intends to use the parcel for normal residential purposes, physical improvements to the right-of-way will be necessary.

In order for a road relating to the division of land by sale to be a development within the meaning of Act 250, it must involve the construction of improvements (10 V.S.A. §6001(3) and §6081(a); Rules of the Environmental Board, Rule 2(A)6.)


Construction of improvements means that there must be some physical change to the land, no matter how minimal, which initiates the development such as placement of stakes or clearing of brush (cf. Rules of the Environmental Board, Rule 2(D)).

The petitioners propose no physical change to the involved tract of land with respect to the establishment or improvement of a right-of-way for access to parcels for sale; and, therefore, are not proposing an activity which is a development within the meaning of the Act.

Dated at Montpelier, Vermont this 4th day of December, 1975.

ENVIRONMENTAL BOARD

By


Schuyler Jackson
Chairman

Members participating:
Robert E. Broderick, William D.
Countryman, Roland E. Keenan - yes.
Dr. James W. Marvin, Margaret
Garland - no.
The Chairman did not participate
in the decision.