

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

Docket No.

v.

H.A. MANOSH CORPORATION,
Respondent

VIOLATION

- I. Construction on a 70-foot by 50-foot building addition on a permitted development without first obtaining a Land Use Permit amendment in violation of Land Use Permit No. 6L0076, as amended, and Act 250 Rule 34(A).

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and H.A. Manosh Corporation (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. On June 15, 2010, the District 6 Environmental Commission issued Land Use Permit Amendment No. 6L0076-8 (the Permit) to H.A. Manosh Corporation (Respondent) authorizing the previous construction of a 50-foot by 30-foot building (Building) and the previous construction of a 70-foot by 50-foot building addition (Addition) on a tract of land located at 21 Munson Street, Morristown, Vermont.
2. Respondent commenced construction on the Addition in the spring of 2010, before the Permit was issued.
3. Condition 1 of Land Use Permit No. 6L0076-2, issued on May 26, 1982 and in force and effect at all relevant times, provides in relevant part that "No changes shall be made in the project without the written approval of the District Environmental Commission."

4. Respondent commenced construction on the Addition without the written approval of the District Environmental Commission, in violation of Condition 1 of Land Use Permit No. 6L0076-4.
5. Construction of the Addition constitutes a material change to the permitted development, with the potential for significant impacts under one or more Act 250 criteria, including Criteria 1 (waste disposal), Criterion 4 (soil erosion), and Criterion 8 (aesthetics).
6. The Addition caused no actual environmental harm, did not adversely affect the natural environment, and was approved by the Commission.
7. By commencing construction on the Addition without first obtaining a Land Use Permit amendment, Respondent violated Act 250 Rule 34(A).

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violations, the parties hereby agree as follows:

- A. Respondent shall comply with Land Use Permit # 6L0076, as amended.
- B. No later than 30 days of the date on which this Assurance is signed by the Court, the Respondent shall forward the following payments to the Land Use Panel at the address listed below:
 - a. A payment in the amount of Ten Dollars (\$10.00), by check made payable to the municipality where this project is located, for the purpose of paying the fee for recording the notice of assurance in the land records.
 - b. A payment in the amount of \$6,750.00 (U.S. Dollars), by check made payable to "Treasurer, State of Vermont," pursuant to 10 V.S.A. § 8007(b)(3) as a contribution toward public educational projects administered by the Natural Resources Board to enhance public awareness and compliance with Act 250 and other environmental statutes identified at 10 V.S.A. § 8003(a).
- C. Respondent shall send the above-described payments to:
Denise Wheeler, Business Manager
Land Use Panel of the Natural Resources Board

National Life Records Center Building
National Life Drive
Montpelier, Vermont 05620-3201

- D. Any payment made by the Respondent to the State pursuant to this Assurance is made to resolve the violations set forth in this Assurance. Respondent shall not deduct or attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondent's state or federal taxes.
- E. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- F. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.
- G. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Superior Court, Environmental Division. When so entered by the Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- H. Pursuant to 10 V.S.A. § 8007(d), the Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that the Respondent fully complies with the agreements set forth above.
- I. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Superior Court, Environmental Division. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.
- J. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.

K. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

DATED at Morrisville, Vermont, this 27 day of September, 2010.

H.A. MANOSH CORPORATION

By Howard A. Manosh
Howard A. Manosh,
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Lamoille, ss.

BE IT REMEMBERED that on the 27 day of Sept, 2010, personally appeared **Howard A. Manosh**, individually and as the duly authorized agent of H.A. Manosh Corporation, signer and sealer of the foregoing instrument who is known to me or who satisfactorily established his/her identity to me and acknowledged the same to be his/her free act and deed and the free act and deed of H.A. Manosh Corporation and that he/she has the authority to contract on behalf of H.A. Manosh Corporation and that he/she has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,

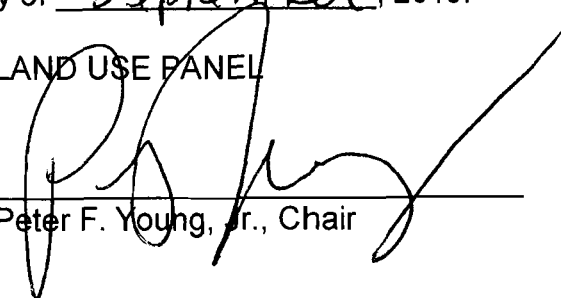
Robert Parsons
Notary Public
My Commission Expires 2/10/2011

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

DATED in Montpelier, Vermont, this 30th day of September, 2010.

LAND USE PANEL

By:


Peter F. Young, Jr., Chair