

FILED

STATE OF VERMONT
ENVIRONMENTAL COURT

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VERMONT
ENVIRONMENTAL COURT

Vermont Natural Resources Board,)
Land Use Panel)
Petitioner,)
v.)
Montana Building & Development Corp.,)
Respondent.)

Docket # 228-10-07 Vtec

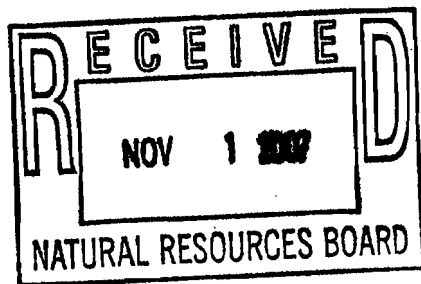
ORDER

The Assurance of Discontinuance signed by the Respondent on October 17, 2007, and filed with the Environmental Court on October 24, 2007, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 31st day of October 2007.

Merideth Wright

Merideth Wright,
Environmental Judge



**STATE OF VERMONT
ENVIRONMENTAL COURT**

**LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner**

v.

Docket No.

**MONTANA BUILDING & DEVELOPMENT
CORP.,
Respondent**

VIOLATION

Commencement of construction without a permit amendment in violation of Condition 16 of Land Use Permit #7C1254, 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 Montana Building and Development Corporation (Respondent) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

STATEMENT OF FACTS AND VIOLATION

1. On February 9, 2007, the District Coordinator for the District 7 Environmental Commission (Coordinator) issued Jurisdictional Opinion 7-252 (JO), holding that an Act 250 permit is required for Kingdom Ridge Realty Trust's 6-unit housing project and Burke Realty Trust's 4-unit housing project. The JO was not appealed.
2. On February 14, 2007, the District 7 Environmental Commission (Commission) issued Land Use Permit #7C1254 (Permit) to Kingdom Ridge Realty Trust and Burke Realty Trust (Permit). The Permit authorized the construction of three (3) two-unit cabin condominiums, being the first phase of a ten-unit housing project on Kirby Road approximately half a mile from the village of East Burke, Vermont.
3. Condition 16 of the Permit states that: "No further subdivision, alteration, and/or development of any parcel of land approved herein shall be permitted without the written approval of the District Commission."
4. On or before August 6, 2007, Respondent became the successor in interest to Kingdom Ridge Realty Trust and Burke Realty Trust with regard to this

housing project, and commenced construction on the four-unit project without having applied to amend the Permit.

5. Respondent has since filed an application for a permit amendment for the four-unit project. This application is currently pending before the District 7 Environmental Commission.

AGREEMENT

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

- A. No later than thirty (30) days of the date on which this Assurance is signed by the Environmental Court, the Respondents shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **\$5,250.00** U.S. Dollars, for the violation noted herein. Respondent shall make said payment by check or money order payable to the "Treasurer, State of Vermont" and shall send it to:

Denise Wheeler, Business Manager
Natural Resources Board, Land Use Panel
National Life Records Center
National Life Drive
Montpelier, Vermont 05620-3201

Any payment by the Respondent made pursuant to this paragraph is intended to resolve the violation set forth in this Assurance of Discontinuance and shall not be considered to be a charitable contribution or business expense under the federal or state tax codes.

- B. Respondent shall comply with all terms and conditions of Land Use Permit #7C1254, as amended.
- C. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violation set forth herein above.
- D. 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.
- E. This Assurance shall become effective only after it is executed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental 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.
- F. Pursuant to 10 V.S.A. § 8007(d), Respondent shall not be liable for 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 this Assurance.
- G. 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 Environmental Court. 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.
- H. Once this Assurance becomes a judicial order, any violation shall 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 or 211, or both.
- I. 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.

**MONTANA BUILDING & DEVELOPMENT
CORPORATION**

By: 

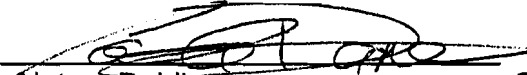
Peter Morrissette, Esq.

STATE OF VERMONT
Caledonia County, SS.

BE IT REMEMBERED that on the 17th day of October, 2007, personally appeared Peter Morrissette, Esq., duly authorized agent of Montana Building & Development Corp. and Kingdom Ridge Realty Trust, signer of the foregoing written instrument who is known to me or who satisfactorily established his identity to me and acknowledged the same to be his free act and deed and the free

act and deed of Montana Building & Development Corp. and Kingdom Ridge Realty
Trust.

Before me:


Notary Public:

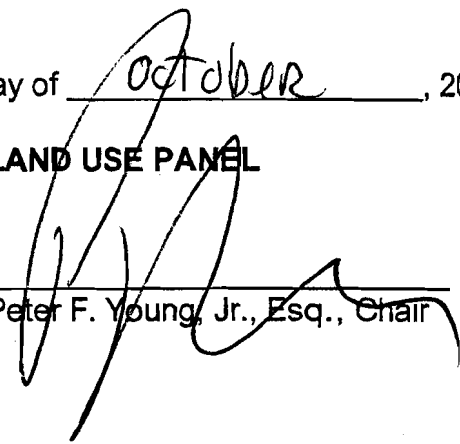
Commission Expires: 2/10/11

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

DATED in Montpelier, Vermont, this 19TH day of October, 2007.

LAND USE PANEL

By:


Peter F. Young, Jr., Esq., Chair