

STATE OF VERMONT
ENVIRONMENTAL COURT

FILED

JUN 20 2008

VERMONT
ENVIRONMENTAL COURT

Vermont Natural Resources Board)
Land Use Panel,)
Petitioner,)
v.)
The Windjammer Hospitality Group, LLC)
Respondent.)

Docket # 120-6-08 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on June 11, 2008, and filed with the Environmental Court on June 19, 2008, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Dated this 20th day of June 2008.

A handwritten signature in cursive script that reads "Merideth Wright". The signature is written in black ink and is positioned above a horizontal line.

Merideth Wright,
Environmental Judge

**STATE OF VERMONT
ENVIRONMENTAL COURT**

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

v.

Docket No.

**THE WINDJAMMER HOSPITALITY GROUP, LLC
Respondent**

VIOLATION

Constructing material changes to a permitted project without a Land Use Permit amendment.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. ' 8007, the Land Use Panel of the Natural Resources Board (Panel) and The Windjammer Hospitality Group, LLC (Respondent) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

STATEMENT OF FACTS AND VIOLATION

1. On or about February 11, 2008, Respondent applied for a permit amendment to authorize certain previously constructed, or "as-built," improvements to the project subject to Land Use Permit No. 4C0217, as amended, (the Permit), on Williston Road (Route 2) in South Burlington, Vermont, currently operating as the Best Western Windjammer Inn and Conference Center. The District 4 Environmental Commission issued said permit amendment on March 27, 2008.
2. These improvements include an indoor pool addition constructed in or about 1996, parking and lighting improvements constructed in or about 2005, and a building addition constructed at some time prior to the permit amendment application.
3. Construction of said improvements without a permit amendment violated the terms and conditions of the Permit in effect at the time of construction, and Act 250 Rule 34(A).

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, Respondent shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **Five Hundred (500) 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

- B. Any payment by Respondent pursuant to this Assurance is made to resolve the violation set forth in this Assurance and shall not be considered to be a charitable contribution or business expense under the federal or state tax codes.
- C. 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 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 signed 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 under Act 250 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 herein.

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- 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. 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.
- 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.

DATED at So. Burlington, Vermont, this 11 day of June, 2008.

The Windjammer Hospitality Group, LLC

By: *Laura J. O'Connell*

STATE OF VERMONT
COUNTY OF Chittenden, SS.

BE IT REMEMBERED that on the 11th day of June, 2008, personally appeared Laura O'Connell, 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/her free act and deed and the free act and deed of The Windjammer Hospitality Group, LLC.

Before me,

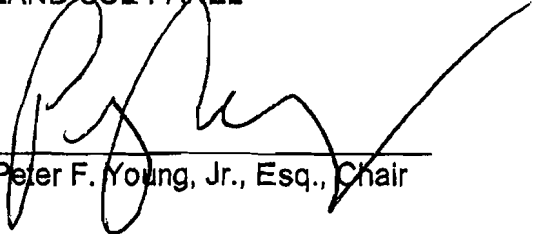
Deanne L. Hill
Notary Public
Commission Expires: 2/8/11

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

DATED in Montpelier, Vermont, this 12th day of June, 2008.

LAND USE PANEL

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