

State of Vermont
Superior Court – Environmental Division

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ENTRY REGARDING MOTION

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Town of Waterford v. Bellefeuille
(Post Judgment Enforcement Action)

Docket No. 153-7-09 Vtec

Title: Motion in Opposition to Temporary Restraining Order (Filing No. 6)

Filed: July 30, 2012

Filed By: Defendants Paul and Lise Bellefeuille

Reply Filed: Aug. 23, 2012 by Plaintiff, Town of Waterford

Granted

Denied

Other

On July 11, 2012, this Court issued a temporary restraining order, pursuant to V.R.C.P. 65(a), against Paul and Lise Bellefeuille (Defendants) upon a motion filed by the Town of Waterford (Town). Defendants challenged the Town's motion in a response filed on July 30, 2012. Defendants argued that the affidavit supplied by the Town in support of its motion contained "untruths" and requested that this Court schedule a hearing on the merits of the order and vacate the temporary restraining order. (Defs.' Resp. to Mot. for TRO 1, filed July 30, 2012.)

Under V.R.C.P. Rule 65(a), a temporary restraining order may not last indefinitely, and the party seeking the order bears the burden of applying for a preliminary injunction if it wishes the injunctive relief to continue. If the party who obtained the restraining order fails to subsequently seek a preliminary injunction, the Court "shall dissolve the temporary restraining order." V.R.C.P. 65(a).

The Town in this case acknowledges that, "[i]nasmuch as Defendants' 'response' may constitute a challenge to the issuance of an injunction, the Town of Waterford stipulates that no injunction is necessary as the date and time of the anticipated commercial event has passed." (Town's Resp. to Defs.' Resp. to Mot. for TRO 2, filed Aug. 23, 2012.) The above statement clearly expresses the Town's unwillingness to apply for a preliminary injunction to continue the injunctive relief granted by this Court in the July 11 temporary restraining order. Accordingly, we hereby **DISSOLVE** the temporary restraining order issued against Defendants by this Court on July 11, 2012.

Because the July 11 temporary restraining order is dissolved, Defendants' request for a hearing on the merits of the restraining order is now moot. Thus, we **DENY** Defendants' request for a merits hearing.

Thomas G. Walsh, Judge

November 1, 2012

Date

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Date copies sent: _____

Clerk's Initials: _____

Copies sent to:

Attorney Edward R. Zuccaro for Plaintiff Town of Waterford

Defendant Paul Bellefeuille

Defendant Lise Bellefeuille

Attorney Steven A. Adler for Intervenors Shari Aldrich, Greg Aldrich, Barbara Heath, Jim Heath, Noreen Newland,
and Jack Newland