

STATE OF VERMONT
ENVIRONMENTAL COURT

In re: Appeal of John A.G.	}	Docket No. 186-11-01 Vtec
Madden	}	
	}	Docket No. 213-12-01 Vtec
In re: Appeal of John A.G.	}	
Madden	}	

Decision and Order on Appellants' Motion for Reconsideration and Motions to Recuse

In Docket No. 186-11-01 Vtec Appellant appealed from a decision of the Planning Commission of the Town of New Haven approving Appellee-Applicants Peter M. Norris, Sr. and Peter M. Norris, Jr.' s six-lot subdivision. The Court granted Appellee-Applicants' motion to dismiss the appeal for lack of Appellant' s standing under 24 V.S.A. § 4464(b)(3), but noted that the dismissal specifically was without prejudice to Appellant' s future assertion of standing in any zoning application for any use or construction on any of the subdivided lots, which should be analyzed on its own merits. Appellant has moved for reconsideration of the dismissal and has moved to disqualify Judge Wright.

In Docket No. 213-12-01 Vtec Appellant appealed from a decision of the Zoning Board of Adjustment of the Town of New Haven approving Appellee-Applicants Peter M. Norris, Sr. and Peter M. Norris, Jr.' s conditional use application for a communications antenna tower to be used in conjunction with a proposed state police barracks on one of the six lots at issue in the earlier case. Appellant has also moved to disqualify Judge Wright in this appeal. Appellee-Applicants have moved to dismiss this appeal and also to advance it on the calendar. The latter motions are not yet ripe for decision.

Appellant has appeared and represents himself; and Appellee-Applicants are represented by Donald R. Powers, Esq. In Docket No. 186-11-01 Vtec, the Town of New Haven was represented by James H. Ouimette, Esq. but the Town has not yet entered its appearance in Docket No. 213-12-01 Vtec.

Under an unrelated order of the Vermont Supreme Court, many current Environmental Court cases are being reassigned to the judges now sitting in Superior Court in the various counties. Docket No. 213-12-01 Vtec would in any event have been reassigned in this manner. Accordingly, the motion for Judge Wright' s recusal in Docket No. 213-12-01 Vtec appears to be moot. However, under V.R.C.P. 40(e)(3) I hereby refer the matter without ruling to the Chief Administrative Judge.

In order to keep the related matters together and because Docket No. 186-11-01 Vtec also would have been reassigned if it had not already been issued, Appellant' s Motion for Reconsideration in Docket No. 186-11-01 Vtec is hereby granted to the extent that the dismissal order is HEREBY VACATED. This action puts Docket No. 186-11-01 Vtec back to the status at which Appellee-Applicants had filed a motion to dismiss Docket No. 186-11-01 Vtec for lack of

standing and had moved to advance it on the docket. As it would then have been reassigned, the motion for Judge Wright' s recusal in Docket No. 2186-11-01 Vtec appears to be moot as well. Under V.R.C.P. 40(e)(3) I hereby refer the matter without ruling to the Chief Administrative Judge.

Thus, both cases have pending motions to dismiss and motions to advance on the docket. The Chief Administrative Judge will address the motions to disqualify Judge Wright and will issue the assignment orders. Documents should continue to be filed at the Environmental Court' s address in Barre; the Clerk of the Court will forward them to the assigned judge.

Done at Barre, Vermont, this 18th day of January, 2002.

Merideth Wright
Environmental Judge