

**Vermont Superior Court  
Environmental Division**

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**ENTRY REGARDING MOTION**  
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**In re: Verizon Wireless Westford Site CU & SP,**

**Docket No. 49-4-11 Vtec**

**Project: Duffy Hill Road Tower Site**

**Applicant: NYNEX Mobile Ltd Partnership and Cellco Partnership, d/b/a Verizon  
Wireless ("Verizon Wireless")**

Title: Motion to Dismiss (Filing No. 1)

Filed: June 9, 2011

Filed By: Brian Sullivan, Attorney for Verizon Wireless

Response in Opposition filed on 06/22/11 by Appellant Randy J. Bishop.

X Granted                    \_\_\_ Denied                    \_\_\_ Other

Appellee has moved to dismiss this appeal, filed by Mr. Bishop, for lack of participation in the municipal proceeding below. The applicable facts presented appear undisputed: Mr. Bishop did not participate, either in person or in writing, in the municipal proceedings concerning Appellee's application. Since participation is a prerequisite for an appeal before this Court, Mr. Bishop's lack of participation precludes this Court's jurisdiction over his appeal.

In general, only interested persons—as defined in 24 V.S.A. § 4465(b)—who have participated in the municipal proceeding below may appeal that determination to this Court. See 10 V.S.A. § 8504(b)(1). An appellant who fails to participate "within the [municipal] proceeding," lacks standing to appeal. See In re Verizon Wireless Barton Permit, 2010 VT 62, ¶ 14.

We are saddened to learn of Appellant's mother's illness. But Appellant has failed to explain why circumstances prohibited him from submitting a brief letter of his concerns to the Town of Westford DRB. Even a brief expression of his concerns about Applicant's project would have qualified as "participation", as that term is defined in 24 V.S.A. § 4471(a).

For all these reasons, we conclude that Appellant's failure to participate in the DRB proceeding forecloses this Court's jurisdictional authority to hear his appeal. Appellee's motion to dismiss is therefore **GRANTED**.

\_\_\_\_\_  
Thomas S. Durkin, Judge

\_\_\_\_\_  
June 23, 2011

\_\_\_\_\_  
Date

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Date copies sent to: \_\_\_\_\_ Clerk's Initials \_\_\_\_\_

Copies sent to:

Appellant Randy J. Bishop

Brian Sullivan, Attorney for Appellees NYNEX Mobile Ltd Partnership and Cellco Partnership  
d/b/a Verizon Wireless

Interested Person Town of Westford