

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 120-8-14 Vtec

Burns Two-Unit Residential Building

ENTRY REGARDING MOTION

Count 1, Municipal DRB Other (120-8-14 Vtec)

Title: Motion for Order of Dismissal w/Prejudice (Motion 13)
Filer: Michael Long
Attorney: Norman C. Williams
Filed Date: May 24, 2017

Response filed on 06/08/2017 by Attorney Brian P. Hehir for Appellee Cynthia Burns
Opposition

The motion is GRANTED IN PART.

The matter before the Court relates to a residential building owned by Charles and Cynthia Burns (Applicants) located at 12 Weston Street in the City of Burlington, Vermont (the Property). On June 3, 2014, Applicants submitted a form titled "Non-Applicability of Zoning Permit Requirements" to the City of Burlington (the City) Department of Planning and Zoning requesting a determination for interior renovations and reconfiguration of two units in the building. That same day the City approved the form and determined no zoning permit was required for the proposed work. A group of neighbors, Michael Long, Alex Friend, Greg Hancock, Hamilton Davis, Matt Moore, Scott Richards, Peg Boyle Single, Paul Bierman, Bret Findley, Jesse Robbins, Caryn Long, Mary Moynihan, Kari Hancock, Candace Page, Susan Moakley, Kathleen Donahue, Richard Single, Sandra Wynne, and Alexander Johnston, (Neighbors) appealed that determination to the City of Burlington Development Review Board (DRB), which, by decision dated July 24, 2014, denied the appeal and affirmed that no zoning permit was required for Applicants' proposed work. Neighbors timely appealed that decision to this Court. Applicants are represented in this appeal by Brian P. Hehir, Esq. Neighbors are represented by Norman Williams, Esq. The City of Burlington is represented by Kimberlee J. Sturdevant, Esq.

In a May 11, 2017 Order, this Court **GRANTED** the Burnses' motion to withdraw their application. As such we **VOIDED** the June 3, 2014 determination of Non-Applicability of Zoning Permit Requirements (14-1172NA).

Neighbors now move that the dismissal of this matter be 'with prejudice.' In the alternative, Neighbors request reimbursement of attorney's fees and costs of this litigation.

Applicants do not object to dismissal with prejudice as long as the prejudice is limited to the Certificate of Non-Applicability.

This matter is **DISMISSED WITH PREJUDICE**. Specifically, the nature of the dismissal with prejudice in this matter is limited to preventing the Burnses from re-applying for the Certificate of Non-Applicability which is specifically at issue in this appeal. This order does not affect the status or use of the property which is the subject of this appeal. Furthermore, this order does not prohibit the Burnses from seeking a different Certificate of Non-Applicability.

The request for an award of costs and fees is denied.

So ordered.

Electronically signed on June 08, 2017 at 02:42 PM pursuant to V.R.E.F. 7(d).



Thomas G. Walsh, Judge
Superior Court, Environmental Division

Notifications:

Norman C. Williams (ERN 2739), Attorney for Appellant Michael Long
Norman C. Williams (ERN 2739), Attorney for Appellant Caryn Long
Norman C. Williams (ERN 2739), Attorney for Appellant Alex Friend
Norman C. Williams (ERN 2739), Attorney for Appellant Mary Moynihan
Norman C. Williams (ERN 2739), Attorney for Appellant Greg Hancock
Norman C. Williams (ERN 2739), Attorney for Appellant Kari Hancock
Norman C. Williams (ERN 2739), Attorney for Appellant Hamilton Davis
Norman C. Williams (ERN 2739), Attorney for Appellant Candace Page
Norman C. Williams (ERN 2739), Attorney for Appellant Matt Moore
Norman C. Williams (ERN 2739), Attorney for Appellant Susan Moakley
Norman C. Williams (ERN 2739), Attorney for Appellant Scott Richards
Norman C. Williams (ERN 2739), Attorney for Appellant Kathleen Donahue
Norman C. Williams (ERN 2739), Attorney for Appellant Peg Boyle Single
Norman C. Williams (ERN 2739), Attorney for Appellant Richard Single
Norman C. Williams (ERN 2739), Attorney for Appellant Paul Bierman
Norman C. Williams (ERN 2739), Attorney for Appellant Sandra Wynne
Norman C. Williams (ERN 2739), Attorney for Appellant Bret Findley
Norman C. Williams (ERN 2739), Attorney for Appellant Alexander Johnston
Norman C. Williams (ERN 2739), Attorney for Appellant Jesse Robbins
Kimberlee J. Sturtevant (ERN 4778), Attorney for Interested Person City of Burlington
Interested Person Judy P. Rosenstreich
Brian P. Hehir (ERN 4252), Attorney for Appellee Charles Burns
Brian P. Hehir (ERN 4252), Attorney for Appellee Cynthia Burns

