

What's the Problem?
With Vermont's permitting process
From the citizen's point of view

December 14, 2002

Act 250

1. Problem: *It isn't fair that developers/applicants can appeal to the Vermont Supreme Court and citizens can't.*

Solution: Extend Vermont Supreme Court appeal rights of Environmental Board decisions to citizens, or withdraw appeal rights for developers/applicants. This issue has been raised several times during this committee's meetings, and there has never been much discussion about it. Please discuss this.

2. Problem: *Citizens are not financially equipped to put on cases against multi-national companies proposing multi-million dollar developments. This is having negative economic impacts on some Vermont communities..*

Solution: Intervenor Funding, as is done in New York State. For projects above a certain size (dollar amount), developers put up a percentage of the project cost to make funds available to parties, including citizens groups and town governments.

3. Problem: *The boards are biased in favor of developers. Why should we bother raising hundreds of thousands of dollars to put on a terrific case when the decision-makers don't want to hear from us?*

Solution: a) Board appointments should go through the same process by which judges are appointed. b) Replace the 9-member Environmental Board with a profession 3-member board, similar to the Public Service Board.

4. Problem: *If citizens do not put on a case in Act 250 that brings another point of view to the commission and board, only the applicant's point of view is heard.*

Solution: Establish an Office of the Public Advocate for the Environment (New Jersey has one), similar to the Department of Public Service Public Advocate, so that the public interest is represented in Act 250 proceedings.

5. Problem: *In large and expensive Act 250 cases, the only way citizens can afford to get their point of view heard is to work with statewide environmental organizations whose party status is increasingly under attack by developers/applicants.*

Solution: Stop attacking statewide environmental organizations and recognize that they are providing an important service to the citizens of Vermont, who currently receive no assistance or representation of any kind in coping with the permitting process.

6. Problem: *Developers announce their projects and get citizens all upset, without first identifying whether or not their projects can meet state permitting requirements.*

Solution: Developers could bring their projects to Act 250 for preliminary review and could also develop cooperative relationships with statewide environmental organizations to work through the issues and identify potential showstoppers prior to involving citizens.

ANR & Act 250

7. Problem: *Developers get their ANR permits before the Act 250 process begins.*

Solution: Require all new development projects that require both Act 250 and ANR permits to bring ANR permits into the Act 250 process, eliminating duplication of review and allowing citizens the right to examine ANR technical decisions in a quasi-judicial review process.

8. Problem: *There are no programs aimed at educating citizens about their rights in Act 250/ANR, similar to numerous programs designed to help developers get through the process.*

Solution: Establish a course and a hotline designed to educate citizens who are about to enter into the Act 250/ANR process.

ANR permits

9. Problem: *No matter what the “public process”, there is no quasi-judicial review and the permits issued are the result of closed-door deals between developers and state employees.*

Solution: For all new ANR permits for projects that also go through the Act 250 process, see #8. For renewals of existing permits, expand the public process at ANR to allow for quasi-judicial review.

General problems

10. Problem: *Citizens are treated with hostility when calling state agencies.*

Solution: a) Educate all state agencies about how to respond to public records requests, including timely responses and redactions listing items being withheld. b) Remember that state government is paid for by the citizens of Vermont -- we are not the enemy.

11. Problem: *There are continuing efforts to disenfranchise citizens from participating in the environmental review process.*

Solution: Act 250 is the only place where citizens get to make their case and participate in the review of development projects that impact their communities. Do not weaken or gut Act 250 by bringing its criteria into other review processes. In streamlining the process, bring ANR and other permits into Act 250, not vice versa.