



July 31, 2014

Ms. Susan M. Hudson  
Clerk of the Public Service Board  
112 State Street  
Montpelier, VT 05620

RE: Memorandum dated July 10, 2014 concerning Order Revision Pursuant to Act No. 199 (S. 220)

Dear Ms. Hudson:

Thank you for calling me concerning the request we sent to you yesterday asking for an extension of the comment period associated with the Public Service Board Notice addressing the requirements of Act No. 199 (S. 220).

On that call, you explained that regional planning commissions were not given notice because statute did not require that we be notified. You further stated that a time extension could not be granted because of the Board's tight deadline. I am writing to again ask that the Board reconsider the request of the Windham Regional Commission.

I would like to call the Board's attention to Act No. 199 (S. 220), which states:

(1) Within 30 days of the effective date of this section, the Board shall provide direct notice to each municipal legislative body and planning commission, the Vermont League of Cities and Towns, the Department of Public Service, and such other persons as the Board considers appropriate, that it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to include definitions of these terms. The notice shall provide an opportunity for submission of comments and recommendations and include the date and time of the workshop to be held.

I would also like to call the Board's attention to 30 V.S.A. § 248a(1), the statute referenced in the Board notice, and the fact that it applies to the land conservation measures in the plans of regional planning commissions. I have added the emphasis.

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by

the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

The direction from the legislature states that each planning commission should be given notice. Upon reading 30 V.S.A. § 248a(1), it would seem reasonable that regional planning commissions could have been included among "each planning commission" that should have received the notice. The direction from the legislature also states that the Board shall provide the notice to such other persons as the Board considers appropriate. As statutory parties under 30 V.S.A. § 248a(1), I hope the Board will agree that regional planning commissions, or their directors, should have received notice. In either case, the fact that the Board did not feel compelled to provide the notice to regional planning commissions as statutory parties is troubling.

Concerning the Board's deadline, I believe I have made a satisfactory argument that all parties were not properly noticed and that professional responsibility, if not proper due process, would dictate that regional planning commissions be given sufficient time to comment. More to the point, I would hope the Board would want and actively solicit regional planning commission input. As noted in our first request, the regional planning commissions only became aware of the Board's notice last week. I respectfully suggest the Board extend its own deadline to allow for comment by regional planning commissions.

As noted in my first letter, I am speaking only for the Windham Regional Commission and the fact that we would like the opportunity to comment. I do, however, argue that all regional planning commissions should be given the opportunity to comment should they choose to do so. I hope the Board will reconsider the Windham Regional Commission's request and provide a reasonable extension of the comment period. I further request that this letter be shared with the Board and its hearing officers.

Thank you for your consideration.

Sincerely,



Chris Company, AICP  
Executive Director

Cc: Vermont Association of Planning and Development Agencies  
Public Service Department Public Advocate