

TESTIMONY REGARDING “ROAD RULE” IN H.926

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On Behalf of Connecticut Attorneys Title Insurance Corporation

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1. Connecticut Attorneys Title Insurance Corporation (CATIC) is a title insurance company domesticated in Vermont and primarily regulated by the Vermont Department of Financial Regulation. Its agent in Vermont is Vermont Attorneys Title Corporation, based in Williston. CATIC is the largest provider of title insurance in Vermont in terms of market share.
2. CATIC insures the “marketability” of title to real estate based on an attorney’s examination of municipal land records. Marketable title is title that is acceptable to purchasers of real estate and mortgage lenders.
3. Mortgage lenders typically require their borrowers to purchase title insurance to protect the lender’s title interest in the borrower’s real estate and borrowers/landowners can also purchase coverage for their own title interest. Title insurance is purchased via a one-time premium paid for at a real estate closing.
4. In the mid 1990s the Vermont Supreme Court ruled that in opining on the marketability of title an attorney must address the question of whether the subject property is in compliance with land use regulations such as local zoning, Act 250 and the state’s water supply and wastewater regulations.

See Hunter Broadcasting, Inc. v. City of Burlington, 164 Vt. 391 (1995); Bianchi v. Lorenz, 166 Vt. 555 (1997).

5. H.926 creates Act 250 jurisdiction over projects involving the construction of a new private road (e.g., driveway) or improvement to a Class IV public road by a private person to provide access, for non-agricultural or forestry purposes, to or within a parcel of land of more than one acre if the road is more than 2,000 feet long. Bill section 3, new subdivision (xii) on pages 5-6.
6. H.926's "road rule" jurisdictional trigger will make it difficult for attorneys to determine whether a parcel of real estate is in compliance with Act 250. This is due to the fact that if after the enactment of H.926 a pre-existing, undeveloped parcel of land is developed with a road or driveway more than 2,000 feet long there would not necessarily be any document filed in the land records reflecting the length of the road/driveway.
7. Under current law a Wastewater/Water Supply permit from the Agency of Natural Resources/Department of Environmental Conservation is required for, among other things, the construction of a structure that will use a sewage disposal system and/or water supply system. WW/WS permits are recorded in the land records. It is likely that most situations involving the construction of a private road in excess of 2,000 feet long for non-agricultural/forestry purposes will also involve the construction of a structure that uses a sewage disposal system and/or water supply system

and will thus require a WW/WS permit.

8. Proposal:

- a. Require ANR to amend the application forms for WW/WS permits so that the applicant has to provide the length of any new roads associated with the project that requires a WW/WS permit.
 - b. Require that the WW/WS permit show the length of any new road, as provided by the applicant, associated with the project.
9. Facilitating the ability of an attorney to determine whether a property is in compliance with Act 250 in connection with a real estate transaction will lead to better compliance with Act 250.