

April 5, 2022

Dear Members of the Senate Committee on Natural Resources and Energy,

We, the undersigned organizations each with decades of experience in development in Vermont, write to you today in the midst of a housing crisis to oppose in the strongest manner the proposed legislation, H.492, sent to you by the House. This legislation proposes to re-establish an Environmental Board to hear Act 250 appeals which would no longer go to the Environmental Division of the Superior Court.

Prior to the mid-2000s, Act 250 appeals went to a prior Environmental Board. Many of us experienced first-hand the dysfunction of that process that caused two major problems. First, the Board was largely composed of lay people with little legal training in interpreting laws, as is the same for the new board proposed in H.492, resulting in inconsistent application of the law. Second, while Act 250 appeals went to the Environmental Board, appeals of local zoning decisions went to the Superior Court, resulting in two different bodies hearing appeals of the same project with sometimes conflicting outcomes. While this served project opponents well, it was highly inefficient and did not serve fair application of the law.

The move to a professional Environmental Division resolved both issues. All zoning and Act 250 appeals go to the same body and are typically consolidated into a single process making it more efficient for all parties. For example, expert witnesses are only required to attend one appeal, not two. Moreover, the judges are legal professionals trained in interpreting and applying the law. Regardless of whether one always agrees with their decisions, they at least are experts who through years of experience have developed a solid body of knowledge in environmental matters. This results in a more even-handed and consistent application of the law.

In this time when Vermont faces a severe housing crisis returning to a system similar to the previous dysfunctional and inefficient appeals process is the wrong way to go.

The goal of making appeals more efficient or expedited would be served by providing additional resources to the Environmental Division. At a time when the need to develop new, affordable housing is so clearly on display, this legislation provides an obstacle to our efforts instead of assistance.

Sincerely,

Miro Weinberger, Mayor  
*City of Burlington*

Anne Watson, Mayor  
*City of Montpelier*

Paul Monette, Mayor  
*City of Newport*

Dave Allaire, Mayor  
*City of Rutland*

Tim Smith, Mayor  
*City of St. Albans,*  
and Executive Director  
*Franklin County Industrial Development Corporation*

Matt Chabot, Mayor  
*City of Vergennes*

William Fraser, City Manager  
*City of Montpelier*

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*White + Burke Real Estate Advisors*

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*City of Winooski*

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