

Bond Case Briefs

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In re Snowstone, LLC Act 250 Jurisdictional Opinion

Supreme Court of Vermont - September 3, 2021 - A.3d - 2021 WL 4025651 - 2021 VT 72

Prospective purchaser of proposed stone quarry sought review of jurisdictional opinion of state land use district coordinator that purchaser needed a permit under state's land use and development law for quarry, which was on less than an acre of land within a larger unimproved parcel in a municipality without permanent zoning and subdivision bylaws.

The Superior Court, Environmental Division, determined that quarry did not need state permit. Objectors appealed.

The Supreme Court held that:

- Quarry was not a "development" needing a state permit, and
- Objectors did not timely seek additional hearing to present evidence regarding project footprint in light of stormwater permit conditions.

Under permitting requirements of state's land use and development law, a "development" on more than one acre of land, needing a permit in a "one-acre town" that has not adopted permanent zoning and subdivision bylaws, refers to the land actually used for the construction of improvements, rather than the size of the parcel on which the construction of improvements will be located.

Proposed stone quarry on less than an acre of land within a larger unimproved parcel was not a "development" in a municipality that had not adopted permanent zoning and subdivision bylaws, and therefore the quarry did not require a permit under state's land use and development law.

Failure of proposed stone quarry operator to inform objectors of a stormwater permit decision for quarry within ten days of obtaining permit did not excuse objectors' failure to abide by Environmental Division's order giving objectors 30 days from stormwater permit determination to request further hearing in appeal of jurisdictional opinion of state land use district coordinator regarding need for a permit under state's land use and development law, where objectors participated in stormwater permitting proceedings and had notice that stormwater permit was issued before deadline for seeking further hearing in appeal of jurisdictional opinion in order to present evidence regarding project footprint in light of stormwater permit conditions.