

STATE OF VERMONT

VERMONT ENVIRONMENTAL COURT

In re Appeal of J.D. Associates

Docket No: 36-2-00 Vtec

ENTRY ORDER

This is an appeal on the record, governed by V.R.C.P. 76(e)(3), which refers to V.R.C.P. 74(d) for the preparation of the record on appeal. That rule provides that the record consists of

“all writings and exhibits in the agency proceeding; a transcript of any oral proceedings; and, where required by law, a statement of the questions which the appellant desires to have determined.” V.R.C.P. 74(d) adopts portions of the appellate rules, but not V.R.A.P. 10. V.R.C.P. 74(d) also provides that “[a]ny party desiring a transcript of any portion of the proceedings to be included in the record on appeal shall notify all other parties thereof, [and] shall procure such portion at that party's own expense. . . .” The Municipal Administrative Procedure Act, 24 V.S.A. §1201 et seq., provides in §1209(f) that “[t]ranscriptions of the proceedings of contested hearings shall be made upon the request and upon payment of the reasonable costs of transcription by any party.”

Reading V.R.C.P. 74(d) as a whole, together with 24 V.S.A. §1209(f), we conclude that it does not require the entire proceedings to be transcribed. Rather, the appeal may be on the record if the DRB has produced an “adequate record” of the proceedings, which we have interpreted as any method that produces a record, such as an audio or video tape, capable of being transcribed. Only the party wishing a specific portion of the proceedings to be included in the record is responsible for the costs of having that portion transcribed. If more than one party wishes any specific portion to be included in the record, the Court will allocate the costs if the parties cannot agree.

Accordingly, the Town's motion is denied.

Merideth Wright
Environmental Judge

Date

Date _____ copies sent to:

Clerk's Initials: _____