
**CONFIDENTIAL – ATTORNEY CLIENT COMMUNICATION AND
ATTORNEY WORK PRODUCT**

TO: Rob McDougall, AGO Environmental Division Chief
Bram Kranichfeld, AGO Criminal Division Chief
FROM: Evan Meenan, NRB Associate General Counsel
RE: Case Referral – Daniel Banyai
DATE: December 11, 2018

Introduction

The Vermont Natural Resources Board requests the Attorney General’s Office investigate and, if appropriate, civilly or criminally prosecute Daniel Banyai for constructing improvements for a commercial purpose without first obtaining an Act 250 permit. In response to such violations, the Board typically institutes its own administrative enforcement action. This case, however, is atypical because Mr. Banyai may pose a safety risk and may have lied to the Board and the Rutland County Sheriff’s Office. These aggravating factors have caused the Board to cease its own investigation.¹ They also weigh in favor of involving the AGO and its certified law enforcement officers.

Summary of Applicable Act 250 Statutes and Rules

Individuals are prohibited from commencing development without an Act 250 permit. 10 V.S.A. § 6081(a). “Development” includes both:

1. “The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.”
2. “The construction of improvements for commercial or industrial purposes on more than one acre of land within a municipality that has not adopted permanent zoning and subdivision bylaws.”

10 V.S.A. §§ 6001(3)(A)(i) and (ii) (creating what are now referred to as “10-acre” and “1-acre” towns). “Construction of improvements” generally means “any physical change to a project

¹ [REDACTED]

site.” *Act 250 Rule 2(C)(3)*. “Commercial purpose means the provision of facilities, goods or services by a person other than for a municipal or state purpose to others in exchange for payment of a purchase price, fee, contribution, donation or other object or service having value.” *Act 250 Rule 2(C)(4)*.

There are three avenues for enforcing violations of this prohibition. First, the Board may institute an administrative enforcement action. 10 V.S.A. Ch. 201. Second, the AGO may bring a civil action in the Board’s name. 10 V.S.A. § 8221. Finally, the State’s Attorney or the Attorney General’s Office may bring a criminal prosecution. 10 V.S.A. § 6003 (establishing a 2-year misdemeanor for all Act 250 violations).

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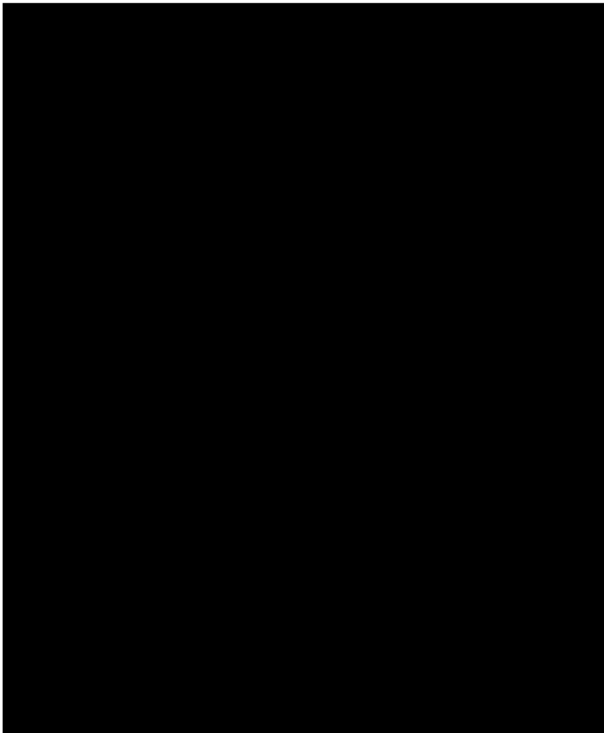
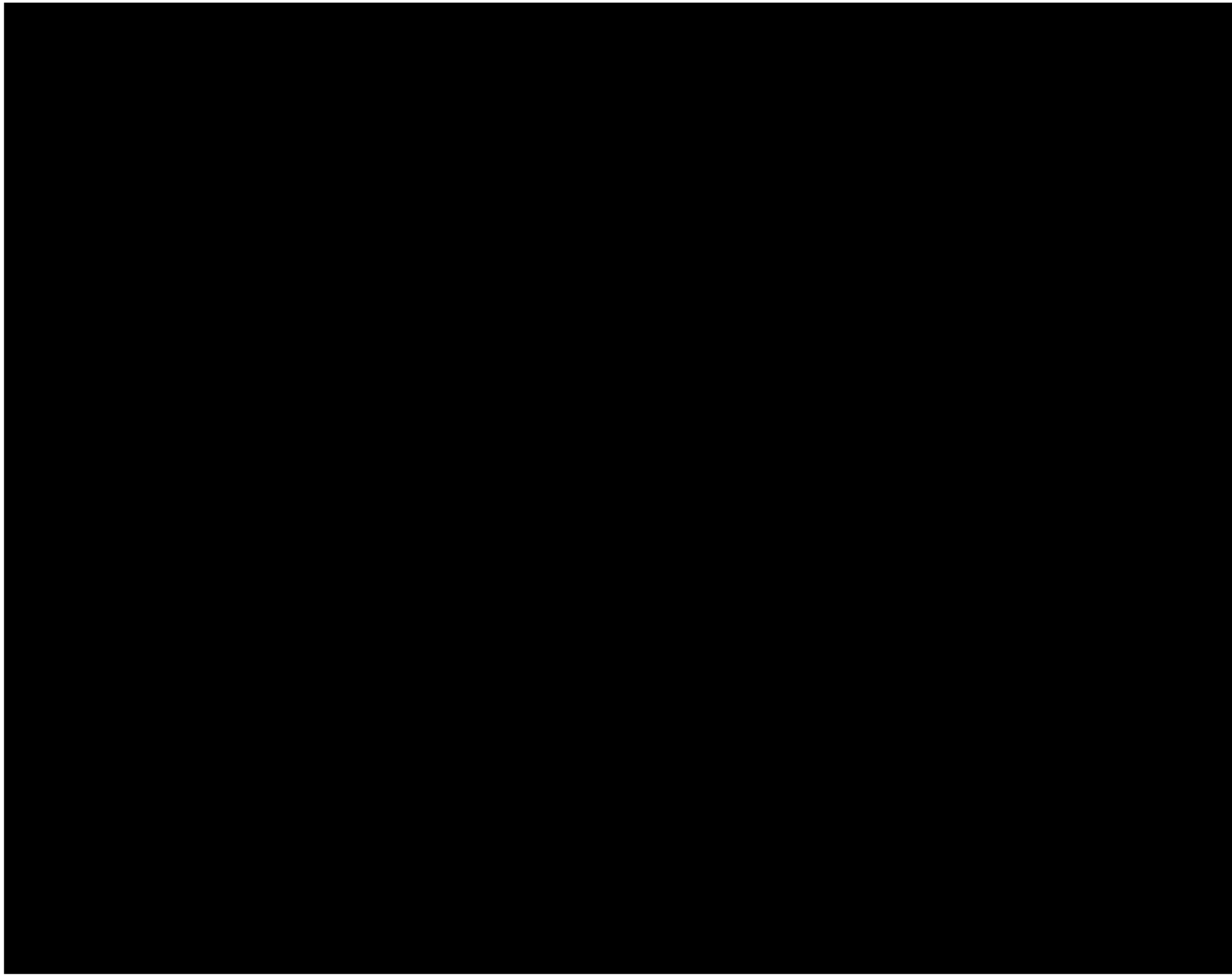
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