

BELLINGHAM PLANNING BOARD  
TOWN HALL ANNEX  
BELLINGHAM, MASSACHUSETTS

Executive Session of October 25, 1979

Members Present: John P. Murray, Chairman  
Sergio Rotatori, Vice Chairman  
Gerald Brisson  
Normand Langlais  
Carl Rosenlund

Executive session was called to discuss litigation on Center Park Estates. In a letter dated October 10, 1979 Town Counsel Ambler sent the Board a copy of the complaint and also a copy of the answer of the bonding company relative to the complaint. Case is now pending the Trial List, no set date.

Herr pointed out that Tyler and Reynolds and in particular Attorney H. Theodore Cohen are excellent attorneys and very knowledgeable regarding zoning regulations. In the answer to the complaint the bonding company is basing its case on a one year statute of limitations as set forth in G.L. c. 41 81Y. The bonding company is fighting the claim against the bond and basing its action that the town failed to take action within a year after the bond has expired. The insurance company is saying that they are not liable for that bond. The statute does say that the town has to take action within a year. Their counsel knows what he is doing and is extremely well respected in that area. The insurance company has come to the top counsel and it is his sense that the board is on very shaky ground. Murray pointed out that Ambler had stated that the board signed the plan as an approval not required plan and as such cannot expect a bond or security. Ambler is saying that Center Park Estates is not a subdivision. Herr pointed out that there was no covenant on the subdivision when it was first approved and the Board managed to get a bond. The issue is that the insurance company is not basing its argument on that point. There is no mention of that at all. Their position is quite clear they are going for the one year limitation.

Rotatori pointed out that he felt that the bank who took over the land from the bankrupt construction company should be held responsible. When they bought the subdivision he is taking on the responsibility of that land which is to finish the road. He felt that Ambler should be going after the bank who took over the subdivision.

Herr stated the Building Inspector is not issuing a building permit on the remaining lots because the owner has a covenant on the land. You are on thin ice there, but that is another matter.

Herr suggested that Ambler be asked to meet with the Board to discuss clarification of the suit. The Board should be aware of the one year statute if it is so.

On a Brisson-Rotatori motion Board closed the Executive Session at 10:30 P.M.

Respectfully submitted,

  
Sergio Rotatori, Clerk