

Addendum to July 14, 2015 ZBA Testimony Re: Pratt/Dennison Schist Mine Proposal

I didn't read the June 25, 2015 Supreme Court ruling in the case of King. v. Burwell that upheld the Affordable Care Act, popularly known as Obamacare, and I'm guessing most of you didn't either. But, like me, you're probably familiar with the case from numerous detailed newspaper accounts. In a nutshell the sum and substance of the case as I understand it is this: A sentence in the law seemed to limit the federal tax subsidy to only those who obtained their health insurance through a state program; by implication those who bought their insurance through the federal program, as hundreds of thousands did, would have been ineligible for the federal subsidy. Because the tax subsidy is such an integral component of the Affordable Care Act it was widely believed if the Supreme Court ruled that the sentence meant what it appeared to mean, the Affordable Care Act would have essentially collapsed. But this is not the way the Court ruled. Rather the Chief Justice of the United States made the common sense observation that the purpose of the Affordable Care Act was to improve health insurance markets not destroy them, and thus ruled that when a part of legislation seems to be inconsistent with the intent of the legislation, it should simply be considered flawed draftsmanship and ignored.

Now consider the incomplete sentence upon which Petitioners request for a permit to mine schist in the Halifax conservation district rests: "includes earth and mineral extraction" found in the definition section of the Halifax zoning bylaws tacked on at the end of Resource Industry, despite a wealth of contrary evidence suggesting that in the case of the conservation district the resource industries allowed are limited to sustainable agriculture and forestry, and do not include mineral extraction. Consider also that the Affordable Care Act was drafted by legislative experts, and that the Halifax zoning laws were written by citizen volunteers. Which is more likely to contain flawed draftsmanship that should be set aside for the greater good? I respectfully request that the ZBA take its cue from King v Burwell, and base its decision in the dispute before it on the common sense notion that opening the conservation zone to schist mining would in effect gut the very purpose of the Halifax Conservation District.

Secondly, it is no wonder why Petitioners have assiduously avoided the specific and unambiguous language of the Halifax town plan, particularly as it applies to the conservation district. Under the town plan Petitioners lose their case before even getting to the zoning bylaws. (See July 14, 2015 ZBA Testimony Re: Pratt/Dennison Schist Mine Proposal).

Finally, returning once again to the newspapers to make a final related point. As I read the papers I often come across seemingly intractable problems and ask myself what was the genesis of the dispute; if only it could be undone somehow, but so often it seems that at a certain point it can't. Many times these are international matters, but sometimes they are local as in the case of the never ending disputes that periodically pop up between the Vernon Selectboard and Vernon's police force. Similarly, if history is any guide there can be little doubt that if Petitioners request were to be approved, the next 50 years would be riddled with conflict and problems, some of which are foreseeable and some which are all but impossible to anticipate at this time. Please don't reach the decision that would have some 12-year old

thirty years from now asking his or her parents how it is that a schist mine was allowed in a conservation district in the first place. It's unlikely another opportunity will arise to put the genie back in the bottle.

Respectfully submitted,

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