

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **FLOOD MANAGEMENT
EXEMPTION**

**CONNECTICUT DEPARTMENT OF
PUBLIC WORKS (Bridgeport Superior
Court, Center for Juvenile Matters)** : **JULY 11, 2006**

**FINAL DECISION
ON RECONSIDERATION**

***I*
SUMMARY**

In a May 27, 2003 Final Decision (2003 Decision), the Department of Environmental Protection (DEP) granted a flood management exemption to the Department of Public Works (DPW)¹ in connection with the planned construction of the Superior Court and Center for Juvenile Matters (CJM) in Bridgeport. This exemption from the provisions of General Statutes §25-68d(b)(4) was approved after it was determined, after notice and a public hearing, that the exemption was necessary and that the DPW had shown that the project was in the public interest, would not injure persons or damage property in the area, and complied with the provisions of the National Flood Insurance Program. §25-68d(d)(1).

The project was redesigned subsequent to the 2003 Decision. In April 2006, the DEP petitioned for a reconsideration of the 2003 Decision to determine whether the redesigned project, which still requires an exemption from §25-68d(b)(4), continues to meet the requirements of §25-68d(d)(1). Following notice and a June 22, 2006 hearing at the DEP in Hartford, the parties filed Stipulated Facts and Legal Conclusions, which are adopted and

¹This request was submitted on behalf of the Connecticut Judicial Branch.

appended as Attachment I of this decision. As modified herein and by those facts and conclusions, the 2003 Decision granting a flood management exemption to the DPW is affirmed. General Statutes §4-181a; Regs., Conn. State Agencies §22a-3a-6(z)(1).

II FINDINGS OF FACT

1. The stipulated facts (SF) filed by the parties modify the findings of the 2003 Decision. Of note are the following stipulations regarding the redesign of the proposed project, including the Court, the CJM and the related development of the site.
 - a. The Court and the CJM are now two separate buildings. SF 5(a). (Exs. APP-15(R), 16a(R), 17(R), 18b(R), 18c(R); exs. DEP-32(R), 35(R), 36(R); test. A. Christian, R. Gradwell, 6/22/06.)
 - b. Only the CJM is now a “critical activity” pursuant to §25-68b(4); only the CJM needs to be elevated above the 500-year flood elevation. SF 5(b). (Exs. APP- 15(R), 18b(R), 18c(R); exs. DEP-35(R), 36(R); test. J. Bolton, A. Christian, 6/22/06.)
 - c. As a result of the redesign, including an increase in the amount of fill, the finished first floor elevations of each building place each above the 100-year flood elevation. The CJM will be above the 500-year flood elevation and outside of the floodplain of a base flood for a critical activity. SF 5(c), 5(h), 5(j). (Exs. APP-14(R), 15(R), 18c(R); exs. DEP-35(R) 36(R); test. A. Christian, R. Gradwell, 6/22/06.)
 - d. Because the CJM is above the 500-year flood elevation, no manual flood shields or flood proofing is necessary. As the lowest floors of each building meet the elevation requirements for their structures, the elevations of electrical outlets and utilities are no longer a concern. These systems are also designed or located to prevent the entry or

- accumulation of water from a 500-year flood event. The electrical generator and transformer are located above the 500-year flood elevation. The redesigned project will use gas instead of fuel oil, eliminating the oil tank. SF 5(d). (Exs. APP-14(R), 15(R), 18c(R); exs. DEP-35(R), 36(R); test. A. Christian, R. Gradwell, 6/22/06.)
- e. The redesign increases the combined footprints of the buildings, but sets them back further from the Pequonnock River than in the 2003 design. The entire project does not encroach into the floodplain to the extent of the 2003 design. SF 5(e), 5(i). (Exs. APP-15(R), 16a(R), 18c(R); exs. DEP-35(R), 36(R); test. A. Christian, R. Gradwell, 6/22/06.)
 - f. The redesign increases the amount of pervious area, which will improve the quality and decrease the amount of storm water runoff leaving the site. SF 5(f). (Exs. APP-15(R), 16a(R), 16b(R), 18c(R); exs. DEP-35(R), 36(R); test. A. Christian, R. Gradwell, 6/22/06.)
 - g. The area for public access to the Pequonnock River is increased by almost 20,000 square feet. SF 5(e) - 5(h). (Exs. APP-15(R), 16a(R), 16b(R); exs. DEP-35(R), 36(R); test. J. Bolton, A. Christian, R. Gradwell, 6/22/06.)
2. The project continues to be consistent with the Connecticut Coastal Management Act. SF 5(k). (Ex. DEP-37(R); test. J. Bolton, A. Christian, R. Gradwell, 6/22/06.)
 3. A revised and updated remedial action plan has been developed to remove the contaminated soils and remediate groundwater contamination to standards for remediation (RSRs). Hazardous materials such as lead and asbestos that were in the former building on site have been removed and disposed. SF 6; 8. (Exs. APP-14(R), 16c(R), 18c(R); ex. DEP-35(R); test. A. Christian, R. Gradwell, 6/22/06.)

4. The Conditional Letter of Map Revisions (CLOMR-F) received from the Federal Emergency Management Agency (FEMA) is in effect and unaffected by the proposed redesign. The redesign, including the lowest adjacent grades to both buildings, continues to be consistent with the requirements of the National Flood Insurance Program. SF 5(j), 7, 9. (Ex. APP-14(R); exs. DEP-35(R), 36(R); test. J. Bolton, A. Christian, R. Gradwell, 6/22/06.)
5. There is still a need to build the Court and the CJM. The reasons for the project, reflected in the 2003 Decision, are unchanged. The project continues to be in the public interest. (Ex. APP-18a(R); exs. DEP-35(R), 36(R); test. A. Christian, J. McMahon, 6/22/06.)
6. As a state project, the construction of the Court and the CJM is not a grant or a loan; issues regarding impacts to flood insurance are therefore not a factor. The project is also not a flood control project. (Ex. DEP-36(R); test. A. Christian, 6/22/06.)
7. The redesign does not change the conclusion that the project would not cause injury to persons or damage property and would not result in adverse impacts on flooding or the environment. SF 10,11. (Exs. DEP-35(R), 36(R); test. A. Christian, 6/22/06.)

III

CONCLUSIONS OF LAW

The parties' stipulated Legal Conclusions (Attachment I) are adopted in their entirety. This activity and critical activity would be in the public interest; would not injure persons or damage property in the area of the activities; comply with the National Flood Insurance Program; do not constitute a grant or a loan; and do not constitute a flood control project. General Statutes §§25-68d(b)(4), 25-68d(d); Regs., Conn. State Agencies §25-68h-1(f).

The proposed project to construct a Superior Courthouse and Center for Juvenile Matters in Bridgeport continues to require an exemption from the provisions of §25-68d(b)(4), however, the redesigned project complies with the provisions of §25-68d(d)(1). Moreover, the redesign of the project and the consequent development of the entire site actually improve flood management. Public access to the River is also enhanced and the project continues to prevent adverse effects on flooding, coastal resources and the environment.

The proposed project continues to meet the statutory and regulatory requirements set out in the 2003 Decision. Following reconsideration, the conclusions of that Decision granting an exemption from the provisions of §25-68d(b)(4) are unchanged by the redesign of the project. I affirm the floodplain management exemption granted to the DPW in the May 27, 2003 *Final Decision In the Matter of Connecticut Department of Public Works (Bridgeport Superior Court, Center for Juvenile Matters)*. General Statutes §25-68d(d)(1).

/s/ J. Deshais
Janice B. Deshais, Director
Hearing Officer

IN THE MATTER OF :
CONNECTICUT DEPARTMENT :
OF PUBLIC WORKS (Bridgeport :
Superior Court and Center for Juvenile :
Matters) : JUNE 23, 2006

STIPULATED FACTS AND LEGAL CONCLUSIONS

The Department of Public Works (DPW) and the Department of Environmental Protection (DEP) hereby respectfully submit the following stipulated facts with regard to the reconsideration of the Final Decision issued on March 27, 2003, granting an exemption from Conn. Gen. Stat. § 25-68b(4). To the extent the stipulated facts set forth below are inconsistent with Stipulated Facts corresponding to the 2003 design, the facts set forth below shall control.

Stipulated Facts:

1. On March 27, 2003, the DEP granted to DPW an exemption from Conn. Gen. Stat. § 25-68b (4) (hereinafter Final Decision).
2. On January 9, 2006, DPW submitted another Flood Management Exemption Request (hereinafter Exemption Request) to DEP's Inland Water Resources Division (IWRD) because the project subject to the previously granted exemption had been redesigned.
3. On March 16, 2006, DPW requested that IWRD seek reconsideration of the Final Decision pursuant to Conn. Gen. Stat. § 4-181a(b) and Regs. Conn. State Agencies § 22a-3a-6(e).
4. On April 10, 2006, IWRD filed a Petition for Reconsideration with the Office of Adjudications. On April 21, 2006 that Petition was granted.
5. The redesign of the subject project results in the following changes:
 - (a) Two buildings instead of one building are being proposed. The Superior Court will be housed in one building and the Center for Juvenile Matters (CJM) will be housed in the second building.
 - (b) Only the CJM is a "critical activity," as classified in the Final Decision. The Superior Court is an "activity," as defined in Conn. Gen. Stat. § 25-68b(1). As such, only the CJM needs to be elevated above the 500-year flood elevation.
 - (c) The finished first floor elevation of the Superior Court is 10.75 feet NAVD88; 1.13 feet above the 100-year flood elevation. The finished first floor elevation of the

CJM is 12.25 feet NAVD88; 0.13 feet above the 500-year flood elevation. The second floor elevation of the CJM is 26.25 feet. Consequently, both buildings will be above the 100-year flood elevation, and the CJM will be above the 500-year flood elevation, and therefore will be outside of the floodplain of a base flood for a critical activity.

(d) Because the CJM is being elevated above the 500-year flood elevation, no manual flood shields (a/k/a "flood gates") or floodproofing is needed. Further, electrical, heating, ventilation and plumbing are designed or located to prevent water from entering or accumulating during a 500-year flood event. The generator and transformer are located above the 500-year flood elevation. There is no fuel tank as gas is going to be used.

(e) The combined footprint for the Superior Court and CJM is 42,584 s.f.; an increase of 552 s.f. from the 2003 design.

(f) The amount of pervious area is 49,290 s.f.; an increase of 17,790 s.f. from the 2003 design.

(g) The public access area is 37,543 s.f.; an increase of 19,835 s.f. from the 2003 design.

(h) The total amount of fill will be 2300 cy; an increase of 951 cy from the 2003 design.

(i) The buildings are set back further from the Pequonnock River than the building was in the 2003 design.

(j) The lowest adjacent grade to the Superior Court building is 10.10 feet NAVD88 (11.18 feet NGVD). The lowest adjacent grade to the CJM is 9.71 feet NAVD88 (10.81 NGVD).

(k) On April 6, 2006, Mary-Beth Hart of the Office of Long Island Sound Programs, concluded that the project is consistent with the applicable policies and standards contained in the Connecticut Coastal Management Act. (Exhibit DEP-37(R)).

6. Additionally, the RAP was revised in light of the new site redesign. The revised RAP was prepared under the direction of Richard C. Hathaway, a licensed environmental professional (LEP) with DTC. Mr. Hathaway will be the LEP responsible for the remedial activities at the site.

7. The previously obtained Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA) is still in effect and is unaffected by the proposed redesign. The revised maps will show that the area of both buildings will be outside the 100-year floodplain, and the CJM will be outside the 500-year floodplain.

8. Hazardous materials, such as lead and asbestos, that were contained in the former Bridgeport Department of Public Works's building have been removed and properly disposed.
9. The redesign continues to be consistent with the requirements of the National Flood Insurance Program.
10. There will be no adverse effects on flooding resulting from the redesign.
11. There will be no adverse effects on the environment from the redesign.

Legal Conclusions:

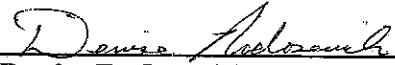
The Parties also respectfully stipulate that the redesign of the project does not affect the following legal conclusions:

- a. the activity and critical activity will be in the public interest;
- b. the activity and critical activity will not injure persons or damage property in the area of such activity or critical activity;
- c. the activity and critical activity comply with the National Flood Insurance Program;
- d. the activity and critical activity do not constitute a grant or a loan; and
- e. the activity and critical activity do not constitute a flood control project.

Conn. Gen. Stat. § 25-68d(d), RCSA § 25-68h-1(f) and Conn. Gen. Stat. § 25-68d(b)(4)

III. Conclusions

The parties hereby stipulate to the foregoing facts and legal conclusions contained herein on this 23rd day of June 2006.


Denise Rodosevich
Department of Public Works


Denise Ruzicka
Department of
Environmental Protection

APPENDIX A

P A R T Y L I S T

Reconsideration of Final Decision
DPW/Bridgeport Superior Court and Center for Juvenile Matters
Floodplain Exemption

PARTY

REPRESENTED BY

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