

IN THE MATTER OF	:	APPLICATION NO. 200501978e
	:	FLOOD MANAGEMENT
	:	EXEMPTION REQUEST
	:	
CT DEPARTMENT OF EDUCATION/ "UNIVERSITY OF HARTFORD MAGNET SCHOOL"	:	AUGUST 24, 2007

FINAL DECISION ON RECONSIDERATION

I

SUMMARY

In a January 16, 2007 Final Decision ("2007 Decision"), the Department of Environmental Protection ("DEP") granted a flood management exemption to the Department of Education ("DOE") in connection with the planned construction of a magnet high school at the University of Hartford. 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 the DOE had demonstrated 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 2007 Decision. On May 16, 2007, the DEP petitioned for a reconsideration of the 2007 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 July 17, 2007 hearing at the DEP in Hartford, the parties filed Stipulated Facts and Legal Conclusions, which are adopted and appended as Attachment A of this decision. As modified herein and by

those facts and conclusions, the 2007 Decision granting a flood management exemption to the DOE 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 2007 Decision. Of note are the following stipulations regarding the redesign of the proposed project.

- the gymnasium has been reduced in size and modified so that it is no longer founded on piers and is now parallel with the other portion of the building;
- the modified design produces a net cut of 493 cubic yards of material below the 100-year floodplain elevation, where as the original layout provided a net of 38 cubic yards of excavation; and
- associated parking and storm drainage has been modified to accommodate the redesigned magnet school.

(Exhibits APP-2R and APP-4R; Testimony of Jeffrey Caiola, 7/17/07; testimony of Phil Forzley, 7/17/07)

2. Despite the proposed changes, there continues to be no increase in water surface elevation from existing to proposed conditions during the base flood because the modification proposed is located at the downstream side and in the shadow of the

administrative and classroom side of the proposed structure. (Exhibit APP-2R; testimony of Jeffrey Caiola, 7/17/07)

3. The proposed magnet school (both the original and modified design) was reviewed by the Department of Environmental Protection to ensure that it was designed to meet FEMA NFIP standards with the appropriate lowest floor elevations one foot above the base flood elevation of 51.8 feet NAVD 88. The lowest floor/first floor of the proposed building is situated at 57.0 feet NAVD 88 or more than one foot above the 100-year flood. Since the lowest floor of the building will be set at or above elevation 51.8 feet NAVD 88, this project when constructed as proposed will meet or exceed the minimum standards of the NFIP as set forth in 44 CFR section 59 *et seq.* (Exhibit APP-4R; testimony of Jeffrey Caiola, 7/17/07)).

4. The proposed utilities for the buildings are above the minimum FEMA standards and are also designed to meet the stricter guidelines of Conn. Gen. Stat. 25-68b-h and 25-68h-1 thru 25-68h-3 of the Regulations of Connecticut State Agencies. The electrical, heating, ventilation and plumbing are designed and/or located to prevent water from entering or accumulating within the components for the 500-year flood event and the generator, transformer and fuel oil tank are also located above the 500-year flood level. (Exhibit APP-4R; testimony of Jeffrey Caiola, 7/17/07).

5. Mark Twain Drive will be located above the 500-year flood event therefore dry access will be provided for the 500-year event in the revised layout. (Exhibit APP-4R; testimony of Jeffrey Caiola, 7/17/07)

6. There is still a need to build the magnet high school. The reasons for the project, reflected in the earlier Final Decision, remain unchanged. The project continues to be in the public interest.

7. The redesign does not change the conclusion that the project would not cause injury to person or damage property and would not result in adverse impacts on flooding or the environment. (testimony of Jeffrey Caiola, 7/17/07; testimony of Phil Forzley, 7/17/07)

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; and would comply with the National Flood Insurance Program.

The proposed project to construct a magnet high school on the University of Hartford campus in Hartford, Connecticut 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).

The proposed project continues to meet the statutory and regulatory requirements set out in the January 16, 2007 Final 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 Department of Education in the January 16, 2007 *Final Decision in the Matter of Connecticut Department of Education/University of Hartford Magnet School*. General Statutes §25-68d(d)(1).

/s/ Jean F. Dellamarggio
Jean F. Dellamarggio
Hearing Officer

ATTACHMENT A

IN THE MATTER OF	:	APPLICATION NO. 200501978e
	:	FLOOD MANAGEMENT
	:	EXEMPTION REQUEST
	:	
CT DEPARTMENT OF EDUCATION/ "UNIVERSITY OF HARTFORD MAGNET SCHOOL"	:	AUGUST 17, 2007

STIPULATED FACTS AND LEGAL CONCLUSIONS

The Department of Education ("DOE"), the Department of Environmental Protection ("DEP") and the City of Hartford ("City") hereby respectfully submit the following stipulated facts with regard to the reconsideration of the Final Decision issued on January 16, 2007, granting an exemption from Conn. Gen. Stat. §25-68b(4).

Stipulated Facts:

1. On January 16, 2007, the DEP granted the DOE an exemption from Conn. Gen. Stat. §25-68b(4) for the construction of a magnet school at the University of Hartford ("Final Decision").
2. On April 2, 2007, Fuss & O'Neill submitted a letter to the DEP's Inland Water Resources Division ("IRWD") indicating that the design for the magnet school had changed because of cost considerations. Specifically, this letter indicated that the footprints of the building, parking and driveways had been reduced and that the grading plan had been changed.
3. The scope of the redesign of the subject project is summarized as follows:
 - (a) the gymnasium has been reduced in size and modified so that it is no longer founded on piers and is now parallel with the other portion of the building;
 - (b) the modified design produces a net cut of 493 cubic yards of material below the 100-year floodplain elevation, where as the original layout provided a net of 38 cubic yards of excavation; and
 - (c) associated parking and storm drainage has been modified to accommodate the redesigned magnet school.
4. Despite the proposed changes, there continues to be no increase in water surface elevation from existing to proposed conditions during the base flood because the modification proposed is locate at the downstream side of the proposed structure;

5. On May 2, 2007, following its code review of the modified plans for the magnet school, the DOE submitted additional documentation to the DEP's IRWD in support of the modifications.
6. Based on these modifications, the DOE and the City requested that the DEP's IWRD seek reconsideration of the Final Decision pursuant to Conn. Gen. Stat. §4-181a(b) and RCSA §22a-3a-6(e).
7. On May 15, 2007, following its review of the documentation submitted by the DOE and the City, staff of the DEP's IWRD determined that the redesign of the magnet school continued to meet the standards and statutory requirements of the previously issued exemption.
8. On May 16, 2007, the DEP's IWRD filed a Petition for Reconsideration with the Office of Adjudications.
9. On May 31, 2007, the DEP's Office of Adjudications granted the Petition for Reconsideration.
10. On July 17, 2007, DEP's Office of Adjudications held a hearing on the Petition for Reconsideration.

Legal Conclusions:

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

- 1) the activity or critical activity will be in the public interest;
- 2) the activity or critical activity will not injure persons or damage property in the area of such activity or critical activity;
- 3) the activity or critical activity complies with the provisions of the National Flood Insurance Program; and
- 4) in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity.

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

Conclusions

The parties hereby stipulate to the foregoing facts and legal conclusions contained herein on this 17th day of August, 2007.

/s/ Denise Ruzicka
Department of Environmental Protection

/s/ Michael Sullivan
Department of Education

/s/ Robert J. Caffrey
City of Hartford

P A R T Y L I S T

Final Decision on Reconsideration
In the matter of CT Dept. of Education
University of Hartford Magnet School
App. No. 200501978e

PARTY

REPRESENTED BY

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