

must be satisfactorily met before such a case can proceed. Id. To consider a land use application without receiving evidence of the applicant's authority to develop the land would constitute an advisory opinion, something for which this Court, and all courts, has no authority to issue. See In re 232511 Investments, Ltd., 2006 VT 27, ¶ 19, 179 Vt. 409 (stating that "purely advisory opinions" are not within this Court's jurisdictional authority).

In the instant case, the parties are awaiting the outcome of an appeal that will determine each individual's separate rights in property they jointly own. Appellant, who is currently a co-owner of the property, opposes the pending application. Applicant concedes that he is unable to presently make a showing that he has clear and unclouded title of the land to be developed. Further, Appellant concedes that he has now filed an appeal of the land partition with the Vermont Supreme Court to reverse the Superior Court decision in total. Should Appellant's pending land partition appeal before the Supreme Court succeed, Applicant's right to develop the subject property would be thrown into uncertainty.

For this Court to proceed to a trial and merits decision on the pending land use application, we would be asked to approve (or deny) the construction of an ice cream manufacturing facility, but at a presently unknown location. Such an application, were it to go forward, could only be deemed incomplete. Since the parties are in agreement that the appeal pending before the Supreme Court prevents Applicant from stating with certainty where the manufacturing facility will be located, we can only conclude that a stay of these proceedings must continue until a final determination in the land partition action is rendered. We therefore must GRANT Applicant's request that the stay of these proceedings be continued.

We direct that Jon S. Readnour, attorney for Applicant Howard Wilcox, immediately inform this Court when the Supreme Court renders a final disposition of the pending land partition appeal.

Thomas S. Durkin, Judge

July 8, 2010
Date

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Date copies sent to: _____ Clerk's Initials _____
Copies sent to:

- Attorney W. Michael Nawrath for Appellant Gerald M. Wilcox
- Attorney W. Michael Nawrath for Appellant Anne B. Wilcox
- Attorney Robert E. Woolmington for Interested Person Town of Manchester
- Attorney Jon S. Readnour for Appellee Howard Wilcox