

MAINE STATE LEGISLATURE

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1/25/1989

Department of Attorney General

MEMORANDUM

To: John James, Land Bureau, Department of Environmental Protection
From: Sam Kilbourn and Peggy McCloskey, Assistant Attorneys General
Date: January 25, 1989
Subject: Site Location Law, Definition of Subdivision

In response to your memorandum of January 18, 1989 regarding the two versions of 38 M.R.S.A. § 482(5) (1988 Pamph.), your reference to page 242 implies that the DEP has been working with the version enacted by P.L. 1987, c. 812, § 7, and with this we agree. As best we can determine, the reason that West Publishing Company included in the supplement the previously existing version of § 482(5) was to show the amendments that were made to that section by the P.L. 1987, c. 737, specifically which made reference to the new codification of Title 30-A, where in paragraph B of § 482(5) there is reference made to the municipal subdivision law. The reason for this appears to be that when Chapter 812, § 7 repealed and replaced all of § 482(5), no reference was made to the previously enacted Chapter 737 and its reference to Title 30-A. Therefore, to have omitted the old version would have been to omit the new wording regarding Title 30-A (which will take effect on March 1, 1989).

In short, what the Legislature will need to do to resolve this will be to amend the law as amended by Chapter 812 to include the amendments made by Chapter 737 which refer to Title 30-A, § 4551 (instead of Title 30, § 4956). However, the definition of subdivision as it has been amended and exists now is, as you note, on page 242 of the supplementary pamphlet being P.L. 1987, c. 812, § 7.

SK/ec
cc: Philip Ahrens, Deputy Attorney General

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: 2/2/88

TO: Lynn Randall Sta. 43

FROM: Mary Morgan DEP Land Sta. 17

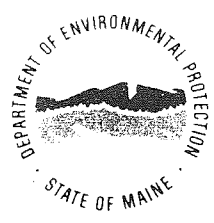
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Yes () No ()

REMARKS

*This is how we
have resolved the
subdivision def.
problem, as far
as which is correct.*



STATE OF MAINE

Department of Environmental Protection

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JOHN R. McKERNAN, JR.
GOVERNOR

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COMMISSIONER

MEMORANDUM

TO: Philip Ahrens, Deputy Attorney General
FROM: John James, Land Bureau, D.E.P.
DATE: January 18, 1989
SUBJ: Subdivision Definition, Site Location Law

** ** ** ** **

The 1988 Supplementary Pamphlet for Volume 16A of MRSA contains two versions of the Site Location subdivision definition, 38 M.R.S.A., Section 482(5). The DEP is using and disseminating the second version on page 242 of the Supplementary Pamphlet. Are we correct to do so? If so, why is it correct to use this version and not the version on page 241?

Please note that the definition of subdivision, the exceptions aside, reads differently in the two versions.

Thanks for your help.

JJ/CHIPMEM/pmf