

From: Mark A. Baker
Sent: Tuesday, May 16, 2023 10:39 AM
To: MN_EQB_Info <info.EQB@state.mn.us>
Subject: Comment

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Hello:

This may appropriately come under item #4 on Continuous Improvement, but also in general:

In the city of Duluth, we have a situation which may be one of first impression in the state. On a citizen's petition, the responsible governmental unit as determined by the EQB, the city itself and by city code, (the Planning Commission) made a decision to require an EAW. However, the city allowed this decision to be overturned by another agency of the city (City Council) which is not the RGU, and outside of the 30 days allowed for an RGU to make a decision on a petition..

In anticipation of this happening, petitioners implored EQB staff for guidance. While staff was very responsive to petitioner's questions, they seemed impotent to give any real guidance or assistance to petitioners to prevent this from happening, apparently leaving petitioners with only option, which is an appeal to the Court of Appeals, a heavy lift indeed..

While it is understandable that staff cannot weigh in on any side in a contested case, it would seem that when a situation like this occurs, one which is outside of the normal experience of staff, that there would be some way that the staff could work with the Board and any outside resources to prevent a situation like this from happening.

Thank you!

Mark A. Baker
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Duluth, MN 55812
3194718877

From: Becca Mulenburg
Sent: Tuesday, May 16, 2023 11:27 AM
To: MN_EQB_Info <info.EQB@state.mn.us>
Cc: Jill N. Crawford-Nichols
Subject: Public comment for EQB meeting 5/17/23

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Dear EQB Board,

In the city of Duluth, we have a situation which may be one of first impression in the state. On a citizen's petition, the responsible governmental unit as determined by the EQB, the city itself and by city code, (the Planning Commission) made a decision to require an EAW. However, the city allowed this decision to be overturned by another agency of the city (City Council) which is not the RGU, and outside of the 30 days allowed for an RGU to make a decision on a petition.

In anticipation of this happening, petitioners implored EQB staff for guidance. While staff was very responsive to petitioner's questions, they seemed paralyzed to give any real guidance or assistance to petitioners to prevent this from happening, apparently leaving petitioners with only one option, which is an appeal to the Court of Appeals, a heavy lift indeed.

While it is understandable that staff cannot weigh in on any side in a contested case, it would seem that when a situation like this occurs, one which is outside of the normal experience of staff, that there would be some way that the staff could work with the Board and any outside resources to prevent a situation like this from happening.

Seeking advisement.

Thank you!
Becca

Becca Mulenburg
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From: Jill N. Crawford-Nichols
Sent: Tuesday, May 16, 2023 11:42 AM
To: MN_EQB_Info <info.EQB@state.mn.us>
Subject: Public Comment for EQB Board 5/17/23

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Dear EQB Board,

This is in regards to the Citizen's Petition for an EAW on Sundby Rd. in Duluth, MN.

The EQB has allowed an RGU to change their minds at the assertion of a developer against state statute. In fact, this retroactive decision came 17 days after the Final Decision was published in the EQB Monitor. Because the RGU decision is time barred, and there is no variance process or written exception outlined within state statute or rules, this should not have been allowed to happen. By the State allowing the ex post facto decision to occur, a negative, state-wide precedent is being set that is against the State's best interest and the EQB's own mission statement.

The EQB's mission is to enhance Minnesota's environmental quality for current and future generations by leading interagency work to advance meaningful public engagement and facilitate informed decision-making on critical environmental issues.

You have now sent the message that anyone aggrieved by an EAW decision can bully the RGU into changing their minds, despite state statute and rules. It is understood that there is no administrative appeal to the EQB, but we think the EQB Board should take this matter very seriously and fully consider the implications this decision has on the EQB's integrity. By the EQB remaining silent on this matter and allowing the city of Duluth to mistreat the citizen's of Minnesota, at the sole benefit of a developer, you aren't remaining neutral. Silence is still a choice and it has consequences. Consequences that we will have to pay for.

The Minnesota citizens of this EAW Petition would like the Board to address the following questions:

- How can a Final Decision be reversed after the 30-day time bar? And if so, please provide a legal description.
- Who oversees and enforces the statues and rules of the EQB?

Thank you.

Jill Crawford-Nichols

Duluth, MN

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Jill N. Crawford-Nichols