STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS

PROVIDENCE, Sc. **DISTRICT COURT**
SIXTH DIVISION

RENEWABLE RESOURCES, INC.	**:**	
	:	
v.	**:**	**A.A. No. 2013-186**
	:	
TOWN OF WESTERLY	**:**	

JUDGMENT

This cause came before Gorman, J. on Administrative Appeal, and upon review of the record and memoranda of counsel, and a decision having been rendered, it is

ORDERED AND ADJUDGED

The decision of the Rhode Island State Building Code Standards Committee is affirmed.

Dated at Providence, Rhode Island, this 24th day of September, 2015.

Enter: By Order:

_____/s/_____ ___/s/_____

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS

PROVIDENCE, Sc. **DISTRICT COURT**
SIXTH DIVISION

RENEWABLE RESOURCES, INC.

v. **A.A. No. 6AA-2013-186**

TOWN OF WESTERLY

In this appeal, plaintiff challenges a decision of the Rhode Island State Building Code Standards Committee (State Committee) which found the Order of Demolition issued by the Westerly Building Official (building official) to be valid and enforceable. The complaint filed in November 2013 is the latest petition for judicial relief to resolve a dispute between plaintiff and the Town of Westerly involving property known as the "Potter Hill Mill" located at 189 Potter Hill Road in Westerly.

This court has jurisdiction pursuant to §23-27.3-127.1.4(g) of the Rhode Island General Laws for appeals from decision of the State Building Code Standards Committee Board of Appeal. In conducting this review, the court is bound by the provisions of R.I.G.L. §42-35-15, a section of the Rhode Island Administrative Procedures Act.

I. PROCEDURAL HISTORY AND FACTS

Litigation relating to the condition of Potter Hill Mill and the Town of Westerly goes back at least to 1984. Most recently, in 2009, judicial intervention was sought to prevent demolition of buildings on the property. Notwithstanding disagreements over a number of other matters, the facts necessary to decide the issues raised by this appeal are largely uncontested. A brief review of the earlier law suits shows that the questions, and probably many of the arguments raised earlier, seem to be repeated here. Both the owner of this property and town

officials have been searching for a satisfactory way to preserve one or more buildings that have historical significance in Westerly while ensuring public safety and maintaining property values in the area around the mill.

As outlined by the Rhode Island Supreme Court's March 4, 2015 opinion, the Potters Hill Mill ceased operations in the 1950's, and more than thirty years ago the Town of Westerly issued an order requiring the demolition of the buildings for safety reasons. Renewable Resources, Inc. v. Town of Westerly, 110 A3d 1166, 1168-1169 (R.I. 2015) The demolition order was upheld by the Rhode Island Building Code Standards Committee on December 12, 1980, and later affirmed by the Superior Court on February 9, 1984.[1] In 1992, Renewable Resources, Inc. purchased the property in "as is" condition and subject to the demolition order. Then, in 2009 – with the demolition order still pending, Renewable Resources, Inc. and Westerly entered into an agreement which required the property owner to take certain steps to clean up the site and erect a fence. The "memorandum of agreement" expressly gave the Town authority to determine whether the property owner had complied with these conditions.

In September 2009, after the Town had asked for proposals for the demolition of the mill, Renewable Resources filed suit in the Superior Court seeking to enjoin Westerly from demolishing the mill buildings. For the next few years, the parties, under Superior Court supervision, attempted to work out a timetable for the development of the property.[2] A preliminary injunction was also entered prohibiting the demolition of the mill. Near the end of

[1] In 1999, the legislature transferred responsibility for hearing theses appeals from the Superior Court to this court. See P.L. 1999, Ch. 430, § 3.

[2] The opinion accompanying the March 2015 Supreme Court Decision recounts the extensive efforts made by the Superior Court Justice to assist the parties, including entering an order permitting quarterly inspections by the town building official, and requiring the issuance of permits for demolition and reconstruction at the mill property. 110 A.2d at 1169.

2012, Westerly sought emergency relief to allow demolition based on a significant increase in the rate the buildings were deteriorating. On December 18, 2012, the Superior Court vacated the injunction prohibiting the town from ordering the demolition of the mill buildings. The Superior Court ruled that the Town of Westerly "shall be permitted to issue a demolition order to the owner of the [Potter Hill Mill] property through its Building Official."

With the injunction removed, on December 20, 2012, the Westerly Building Official issued a "NOTICE OF UNSAFE CONDITION ORDER TO DEMOLISH" identifying the Potter Hill Mill structures owned by Renewable Resources, Inc. This action was taken pursuant to R.I.G.L. §23-27.3-124.1. The order cites the following portions of §23-27.3-124.1, which state that:

> [a] building, sign or, structure shall be declared unsafe by the building official if any of the following conditions exist on the premises:
>
> (1) The building is vacant, unguarded, and open at doors or windows thereby permitting unauthorized entry; or
>
> *** * ***
>
> (3) There is a falling away, hanging loose or loosening of any siding, block, brick, or other building material: or
>
> (4) There is a deterioration of the structure, or structural parts, or a structural weakness exists whereby the continued use and occupancy would endanger the lives of the occupants or those using public or private land in the immediate area; or
>
> (5) The building has been partially destroyed or has been substantially damaged by the elements, acts of God, fire, explosion, or otherwise, and is vacant, regardless of whether or not the building is secured to prevent unauthorized entry; or
>
> (6) the building or structure has been vacant or unused for more than one hundred eighty (180) days, whether or not it has been boarded, guarded, and/or closed at all doors and windows, and has remained in a condition such that the repairs necessary to make the building or structure safe and sanitary for occupancy exceed fifty Percent (50%) of the fair market value of the building or structure in its present condition.

> (7) The building, sign, or structure constitutes a fire or windstorm hazard or is, in the opinion of the building official, otherwise dangerous to human life or public health, safety, and welfare; or
>
> (8) There is an unusual sagging or leaning out of plumb of the building or any parts of the building, and the effect is caused by deterioration or over-stressing; or
>
> *** * ***
>
> (12) Whenever the building or structure has been so damaged by fire, wind, or flood, or has become so dilapidated or so deteriorated as to become an attractive nuisance to children who might play therein to their danger.

The order issued by the Westerly Building Official merely refers to these sections of the R.I.G.L. which supported his finding of unsafe conditions. Renewal Resources, Inc. appealed the Building Official's order to the Westerly Building Code Standards Board of Appeal, which on February 28, 2013, upheld the demolition directive. A further appeal was then filed with the State Building Code Standards Committee, and a hearing was conducted before that tribunal on September 12, 2013. Each party presented a witness and a number of exhibits.

In making its case before the State Committee, Renewable Resources explained its efforts to convert the reclaimable mill buildings into residential housing or offices. The property owner offered a witness who specialized in "adaptive and reuse projects" through which old properties are either restored or are totally changed; for example, an old factory is turned "into loft housing or something like that." Transcript of the September 12, 2013 hearing before the State of Rhode Island Building Code Standards Committee, p. 20. [3] This expert said that he had been working with the mill owners on and off since 2007. In his opinion, the Potter Hill Mill was restorable. Id. at 29. He further explained that in December 2012, the Rhode Island Historical Preservation & Heritage Commission had given the property preliminary approval for nomination to the National Register relating to historic buildings and sites. This type of recognition would make

[3] All transcript citations refer to this hearing.

the property eligible for federal and state tax credits, and in June, 2014, the Rhode Island Division of Taxation notified Renewable Resources that a historic tax credit was available for the Potter Hill Mill project.[4] To support the historical importance of the mill property, plaintiff offered legislation that recognized the mill's significance. In 2011, the Town of Westerly passed a zoning ordinance that created a Historic Mill Overly District. § 260-57. The first property listed in this ordinance is the Potter Hill Mill. § 260-57(b)(1).

The restoration expert, who last visited the area four months before the State Board hearing, acknowledged that he was not a structural engineer and could not offer an opinion on the structural soundness of the buildings. He did confirm that when he saw them: the buildings were vacant; some had no roofs and open windows and doors; some of the buildings had hanging loose sidings, or a falling away or loose bricks or other building materials; and some of the buildings had collapsed. Id. at 29-32. When asked by counsel for the town whether the buildings were destroyed or damaged beyond 50% of their value, he replied that because of the value of some of the building materials, specifically referring to "dressed granite block," it was "probably at that point." Id. at 31.

[4] On August 25, 2015, Renewable Resources requested that pursuant to § 42-35-15 (e), the court consider additional evidence – the fact that the plaintiff corporation had signed an agreement with the State through which tax credits would be granted if certain conditions are satisfied. The documents include a determination that the property has historical significance. The statutory provision cited by the plaintiff would require a remand to the State Committee so it could consider the new evidence.

The court is not persuaded that the evidence offered by Renewable Resources in its motion is "material" to the decision of the State Committee, and believes that sending the case back to the agency would only unnecessarily delay a resolution of this dispute. Therefore, the motion is denied to the extent that it seeks a remand to the State Committee. But in an effort to ensure that all reasonable arguments are considered, the court will weigh the significance of the tax credit agreement in deciding the questions before it.

This witness also stated that in order to determine whether some of the buildings were structurally sound, some demolition would have to be done. And that there was a possibility the buildings would not pass this test, which would make the reconstruction impossible or too expensive. Id. at 36-37.

The Westerly Building Official testified that he had been involved in the Potter Hill Mill project since 2005 or 2006, and that he was responsible for issuing the demolition order. Id. at 39-41. He identified five separate buildings where conditions met one or more of the statutory standards set out in § 23-27.3-124.1 (1), (3), (4), (5), (6), (7), (8), or (12). Id. at 43-54. He also stated that there were photographs showing that unauthorized persons were able to go around the fence protecting the buildings and enter the damaged structures. He said that some of buildings contained graffiti and other indications that individuals had been there. Id. at 53. In the building official's opinion, the Potter Hill Mill buildings were unsafe as defined by § 23-27.3-124.1 of the building code, and were "dangerous and have the ability to fall down at some such time and are an attractive nuisance." Id. at 54. None of the Building Official's observations or opinions concerning the condition of the structures or the dangers they represented was challenged by Renewable Resources.

Through its cross-examination, plaintiff established that the building official did not consider issuing an order requiring restoration of the buildings rather than demolition, nor did he look at any of the state regulations governing historic structures. Id. at 56-57. He stated that he was not aware the town had published any standards for the maintenance of properties in a historic district; explaining that "we follow the property maintenance code or the Minimum Housing Standard Code." Id. at 59. The building official was not familiar with §45-24.1-5 which permits a city or town to identify damaged or deteriorating structures that have historical

significance and to publish standards for the maintenance of properties that are within historic districts.

The decision published by the State Board included the following findings of fact:

> The Board further finds that the Town of Westerly has submitted sufficient documentation, pictures and testimony during the hearing to establish that the unsafe conditions listed in RIGL 23-27.3.124,1(1), (2), (4), (5), (6), (7), (8) and (12) do exist on this property. Specifically, the Board finds that the buildings are vacant, unguarded and open at doors and windows. The Board finds that the exteriors of the buildings are in disrepair and dangerous. The Board finds that there is deterioration of the structure and/or structural elements of the buildings and that this will result in overstressing of the other portions of the subject buildings. The Board finds that portions of the buildings have been destroyed by the elements. The Board further finds that the buildings are vacant and unused for more than 180 days. The Board also finds that the Building Official has determined that the buildings are an attractive nuisance and dangerous to human life, public health, safety and welfare.
>
> Finally, the Board has been advised and finds that the subject mill complex is not listed on the National Register of Historical Places.

II. DISCUSSION

A.

This court has limited authority when reviewing an appeal from an administrative decision. The court cannot "substitute its judgment for that of the agency as to the weight of evidence on questions of fact," §42-35-15(g). Based on the record, the court must determine whether there is legally competent evidence to support the decision of the administrative tribunal. Powell v. Department of Employment Security, Board of Review, 477 A.2d 93, 95 (R.I. 1984). Of course, this very deferential standard '"cannot be equated with no review at all.'" Sloat v. City of Newport, 19 A.3rd 1217, 1224, (R.I. 2011), quoting Pleasant Management, LLC, 870 A.2d at 4445, which was quoting The Astors' Beechwood v. People Coal Co., 659 A.2d 1109, 1115 (R.I. 1995).

Although several other points were made by Renewable Resources in the hearing before the State Board, its principal argument was that the Westerly Building Official's demolition order was invalid because the structures involved were historical buildings. Plaintiff never contested the determination that the property was unsafe as that term is used in § 23-27.3-124.1. Instead, Renewable Resources urged the State Committee to find that the Historical Zoning Act, § 45-24.1-1, et seq, required the building official to submit the matter for review before any of the structures were altered. The building official admitted that he did not remember reading § 45-24.1-5 which sets up procedures for restoring or demolishing structures in historic districts.[5]

The town responded by arguing that the statutory provisions relating to the treatment of distressed buildings within historical zones does not apply to Westerly where a historical district has never been established, and that the uncontroverted facts support a finding that the Potter Hill Mill buildings are "unsafe" under § 23-27.3-124.1.

In its appeal to this court, Renewable Resources again contends that the Westerly Building Official failed to comply with the procedure required when addressing deteriorating historical buildings, and, therefore, his demolition order is invalid. The town asserts that plaintiff did not raise this argument when appearing before the Westerly Building Code Standards Board

[5] This section states:

> **Avoiding demolition through owner neglect. –** A city or town may by ordinance empower city or town councils in consultation with the historic district commission to identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of the structure or its appurtenances. The council shall publish standards for maintenance of properties within historic districts. Upon the petition of the historic district commission that a historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than thirty (30) days within which the owner must begin repairs. If the ownere has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the city or town and cause a lien to be placed against the property for repayment.

of Appeals. Defendant asserts that under the raise or waive rule, this issue was not properly before the State Board and cannot be considered in this forum.

There is no question that Renewable Resources raised this issue in the hearing before the State Committee, and that the committee members understood the property owner was arguing that the laws governing changes to historic buildings had not been followed. While a rejection of the plaintiff's argument that the historic zoning statute applied to Potter Hill Mill is implicit in its decision, the State Committee never ruled on that specific issue. Its decision is limited to agreeing that buildings were unsafe, and that the property was not on the National Register of Historical Places. The State Committed concluded that the demolition order was proper.

Initially, the court must determine whether it can even evaluate the main focus of this appeal – that the Building Official's failure to comply with the requirements of § 45-24.1-1, the historical area zoning statute, makes the demolition order invalid. The statutory scheme for reviewing decisions of local boards charged with ruling on building codes and standards expressly provides that appeals filed with the State Building Code Standards Committee "are subject to de novo review." § 23-27.3-127.2.5(f). Ordinarily, this would permit either party to the appeal to present difference evidence, and different legal arguments when appearing before the appellate tribunal. Black's Law Dictionary (5th Ed. 1979), p. 392, defines the term to mean "[a]new; afresh; a second time," p. 392, and a de novo hearing as:

> Generally, a new hearing or a hearing for the second time, contemplating an entire trial in the same manner in which matter was originally heard and a review of previous hearing. On hearing "de novo" court hears matter as court of original and not appellate jurisdiction.

At p. 649.

The town argues here, however, that the review is not completely "anew" or "afresh," but limited by the legal theories presented to the Westerly Board. There is some authority for restricting legal theories to those made in the earlier proceeding. The town believes that Ridgewood Homeowners Association v. Mignacca, 813 A.2d 965, 977 (R.I. 2003) furnishes appropriate guidance. There, in a case involving an appeal taken from the decision of a zoning board, the Supreme Court reversed the decision of the lower court finding that an entirely different statute than the one relied on by the Superior Court justice required a different result. The Court went on to say that it would not consider an issue raised in the Superior Court because it was not made when the dispute was before the zoning board. Id. at 977. There is no discussion of the de novo nature of the appeal from the Zoning board. It disposed of the waiver question in a single paragraph in a decision where it was not necessary to address that question.

The other decisions, cited by the town, involved summary judgment motions, where the appellate court exercised its own judgment and did not have to give any weight to the Superior Court ruling, declining to entertain arguments not raised below. The court believes in examining these cases it is essential to distinguish between a de novo review where it is based on the record before the earlier tribunal and one where evidence can be, and virtually always is, presented to the reviewing authority. Stating that the reviewing tribunal does not have to be bound by findings made by the lower court or the trial judge's interpretation of facts is quite different than telling a litigant during an evidentiary proceeding that potentially compelling new or different evidence, or a different legal theory, cannot be considered.

The court recognizes that in the hundreds of decisions and opinions rendered by the Rhode Island Supreme Court, there have been more than a few instances when appellants entitled to a trial or review, de novo, have been criticized for neglecting to raise issues in lower

courts.[6] The court believes, however, that in those cases, it was clear that the new legal theory or set of facts would not have resulted in a different outcome. Without attempting an analysis of all the cases where this type of waiver is discussed, the court will entertain plaintiff's argument that the demolition order is invalid because the Building Official did not follow the procedure required under § 45-24.1-1. The court believes that this approach is desirable to avoid having the question raised in subsequent proceedings.

B.

The Rhode Island Supreme Court has interpreted the state Historical Area Zoning Law as mandating that a city or town Building Official must follow specific procedures, and obtain approval from special commissions before he, or she, may issue a valid order to alter or demolish a building, See Kooloian v. Town Council of Bristol, 572 A.2d 273, 275 (R.I. 1990). And the Town of Westerly does not challenge that principle, nor does it contend that its Building Official satisfied the requirements of § 45-24.1-1et seq, before issuing his demolition order. The record is unambiguous on these points. The official testified that he never considered issuing an order of restoration rather than ordering demolition of the buildings, and he did not conduct any analysis to determine whether the structures could be restored. Tr. at 56. The Building official further explained that he was "unfamiliar" with that statute, and that he did not consider the provisions of Title 45, Chapter 24.1 as applying the Potter Hill Mill property. Id. 63. Of

[6] See e. g., Garganta v. Mobile village, Inc., 730 A.2d 1, 3-4. (R.I. 1999) where the Supreme Court stated that the appellant's claims were not properly before the Superior Court in an eviction case because they had not been raised in the District Court proceeding – even though Rule 13 of the District Court Rules did not include a compulsory counterclaim provision. The Reporter's Notes, specifically comments on this difference between the District and Superior court rules. Like the Mignacca case the compulsory counterclaim discussion was unnecessary because the Supreme Court determined that the appeal from the District Court decision was not filed within the required time.

course, if he is correct, the historic significance of the property while important to an understanding of why the parties worked so long and hard attempting to design a restoration plan, is simply not relevant to this court's review of the demolition order.

Rhode Island General Laws Title 45, Chapter 24.1 contains the heading "Historical Area Zoning," and it authorizes cities and towns to "regulate the construction, alteration, repair, moving, and demolition" of structures. § 45-24.1-1 It empowers the local governments to establish historic districts, § 45-24.1-2, and create a "commission" to carry out the purposes of the legislation, § 45-24.1-3. Once a commission is created, it must publish rules and regulations which apply to these types of changes within the historic district. §45-24.1-4. This section explicitly requires the owner to apply for and receive a "certificate of appropriateness" before a building is altered or demolished.

In her cross examination, counsel for Renewable Resources asked the Westerly Building Official whether he was familiar with the provisions of § 45-24.1-5 and the procedure to be followed to avoid demolition where a building has deteriorated from owner neglect. The town official did not remember reading that statute. Tr. At 59.

There is no indication in the record that Westerly ever established a "historic district" as contemplated under the statute, nor did the town create a "commission" pursuant to § 45-24. However, the town did create a "Historic Overlay District" which included the Potter Hill Mill as a "historic structure," and the building official was aware of these facts. Id. at 56.

Because it is clear from the record in this case that Westerly never took the action necessary to establish a historic district or a commission to oversee the construction, alteration and demolition of structures within the district, the court finds that in 2013, the statute, and the

review process it requires, does not apply to properties in the Town of Westerly.[7] In reaching this conclusion, the court has given full weight to the additional material submitted by Renewable Resources in its August 25 and August 31, 2015 submissions, which for the reasons already mentioned, do not alter the analysis in this case. The new information is interesting and shows that the plaintiff is moving forward its efforts to develop the mill property, but the tax credit agreement and determination of historical significance do not invalidate the demolition order.

C.

The focus of this appeal is on the Westerly Building Official's failure to give sufficient consideration to the historic value and significance of the mill property. However, because the demolition order was issued pursuant to § 23-27.3-124.2, the court believes it has an independent obligation to consider whether the Westerly Building Official fully complied with that statute. The relevant portion of the state building code provides in § 23-27.3-124.2 that:

> When the whole or any part of any building, sign, or other structure shall be declared to be in an unsafe condition, the building official shall issue a notice of the unsafe condition to the owner of record describing the building or structure deemed unsafe, and and order either requiring that the building, sign, or structure be made safe or be demolished.

(Emphasis added.) If the town official did not explore alternatives to demolition before issuing his December 2012 order, is it valid?

[7] In its memorandum in support of this appeal, plaintiff suggests that the decision in Kooloian v. Town Council of Bristol, 572 A.2d 273, 275 (R.I. 1990), should be read to require that alterations to a structure with historical significance must first be approved by the local historic district commission. But that principle is inapposite here, for there is no historic district or commission.

In a very different setting – where the owner sought to demolish a building located in a historic district and was ordered to make it safe, the Supreme Court said that the statute "involves a clear exercise of discretion." City of Providence v. Estate of Tarro, 973 A.2d 597, 605-606 (R.I. 2009). The case eventually made its way here to the district court after the city official again directed the owner to make the structure safe. Because this court found that the alternative to securing the building, i. e. demolition, was not considered, the case was remanded so that the building official could weigh both options before issuing a new order. See Estate of Stephen A. Tarro v. City of Providence, A.A. No. 10-229 (Dist. Ct. 2011).

The record in this case clearly shows that the Westerly Building Official never evaluated the steps necessary to make the structures at the Potter Hill Mill property safe. There is no indication that the cost or difficulty involved in securing the buildings, or ensuring that unauthorized persons could not enter the property were ever investigated by the official. To the contrary, his testimony reflects that the official only considered demolition once he was satisfied that the property was unsafe under the building code. This witness responded "[n]o, I didn't" when asked whether he looked to determine if there was "any other sort of reasonable alternative to demolition of the structures." Tr. at 58. Although most of the questions posed by plaintiff's attorney focused on compliance with the Historical Zoning Act, the inquiries also refer to § 23-27.3-124.4 which deals with possible restoration of unsafe building, Tr. at 55, and the cross examination was broad enough to establish that no alternative to demolition was considered by the official. Despite his failure to investigate alternatives to demolition, under the particular circumstances of this case, the matter will not be returned to the State Committee. The court declines to include that the building official's oversight invalidates the demolition order.

The December 2012 order of the Westerly Building Official was not issued in a vacuum. The town and property owner had been struggling for years to find a way of preserving some of the structures at the Potter Hill Mill site, and all parties were aware that restoration efforts would be complicated and quite expensive.[8] The very process of conducting a detailed analysis of all the steps that would have to be taken and the allocation of specific cost for each one would take time and impose further financial demands on Westerly.

Requiring the town building official to conduct a new analysis before issuing an order to address the admittedly unsafe conditions at the Potter Hill Mill site would only further delay a resolution of the dispute between the parties and lead to additional expenses for the property owners and the town. It is obvious that the end result would be another demolition order.

"The law should not be construed idly to require parties to perform futile acts or to engage in empty rituals." Northern Heel Corp. v. Compo Industries, 851 F.2d 456, 461 (1st Cir. 1988). Also, see Gilbert v. City of Cambridge, 932 F.2d 51, 60 (1st Cir. 1991). The court believes that compelling both parties to repeat a process that has already ended in two separate demolition orders[9] would be irresponsible at this juncture. Therefore, it is not necessary for the court to embark in a more comprehensive analysis to determine whether the building official's failure to consider alternatives to demolition prior to issuing the December 2012 order, invalidates that directive; the subject of this appeal.

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[8] At the hearing before the state committee, there was no mention of the actual costs of restoring buildings, but "the Agreement For Historic Preservation Tax Credits 2013" which was submitted to the court in August 2015 includes a provision which applies only if the "Hard Construction Costs of the Project" reach $10,000,000. (§ 9(c)), and the "Maximum Tax Credit Allowed" is $5,000,000. (§ 5(a)(3)).

[9] One in 1980 and the order now before the court.

III. CONCLUSION

For the reasons set forth above, the court affirms the decision of the State of Rhode Island Building Code Standards Committee. However, this ruling should not prevent further discussions between the parties from their search for a viable method of saving structures at the Potter Hill Mill site. During the hearing before the State Committee, defense counsel explained that the town would continue to work with the owner to find a way that buildings might be restored. Westerly's attorney suggested that the actual implementation of the order might be delayed with understanding that any postponement would be at the sole discretion of the town officials.