

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-0257-PET

Petition of Rising Tide Towers II, LLC pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for an installation of a wireless telecommunications facility in	
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MOTION TO DISMISS PETITION FOR FAILURE TO PROVIDE REQUIRED NOTICE

Tanya and Jesse Hart (“the Harts”), intervenors, respectfully move the Commission to dismiss the Petition of Rising Tide Towers II, LLC (“Petitioner”) for failure to comply with statutory and regulatory notice requirements for the Project. Petitioner has failed to notify two adjoining landowners (out of a total of five landowners – or 40% of the adjoining landowners).

MEMORANDUM

1. Statutory and Regulatory Requirement to Notify Adjoining Landowners with Advance Notice and Notice of Substantial Change Amendment

Vermont statute at 30 V.S.A. § 248a(e), and the Commission’s January 18, 2023 Section 248a Procedures, require written notice to all adjoining property owners at the time of filing the Advance Notice, with proof of such notice to be included in the petition.

30 VSA §248a(e) states:

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Commission pursuant to this section

to ... the **landowners of record of property adjoining the project sites.**
(*Emphasis added*)

This Commission's January 18, 2023 Order Adopting Revised Standards and Procedures Implementing 30 VSA §248a, Case No. 22-5122-INV, at p. 5, states, in response to a comment by AT&T:

All municipalities maintain current records of all property transfers within their limits. If AT&T relies on a grand list or other online database to identify adjoining landowners, and is informed that the database it used is in need of or undergoing an update, AT&T is on notice that it is relying on adjoining landowner information that is potentially inaccurate. In that case, **it is incumbent on AT&T to consult with the clerk of the municipality to determine whether any affected properties have been subject to a transfer that is not reflected in the database it used, and if so, to accurately reflect that current information in its application.** This is a simple inquiry that places no undue burden on AT&T or any other applicant.
(*Emphasis added*)

PUC Rule 2.204(G) states:

(G) Amendments in pending proceedings. (1) In general. Proposed amendments to any filing may be made at any time before the evidentiary record is closed. Unless allowed automatically under an applicable statute or rule, or agreed to by all parties (without the Commission denying the amendment), such amendments require Commission approval. Proposed amendments must be clearly identified and must clearly indicate what changes are being made. **In the event an amendment makes a substantial change to a filing, the Commission may order such additional notice to other parties and the public as justice may require.**

In this case, in the 06/18/2025 Order re: Motions, Substantial Change Determination, and Stay of Procedural Schedule, the PUC ordered Petitioner to notify *all* parties and entities which had previously been notified in the case:

Section III of the Commission's *Standards and Procedures Implementing 30*

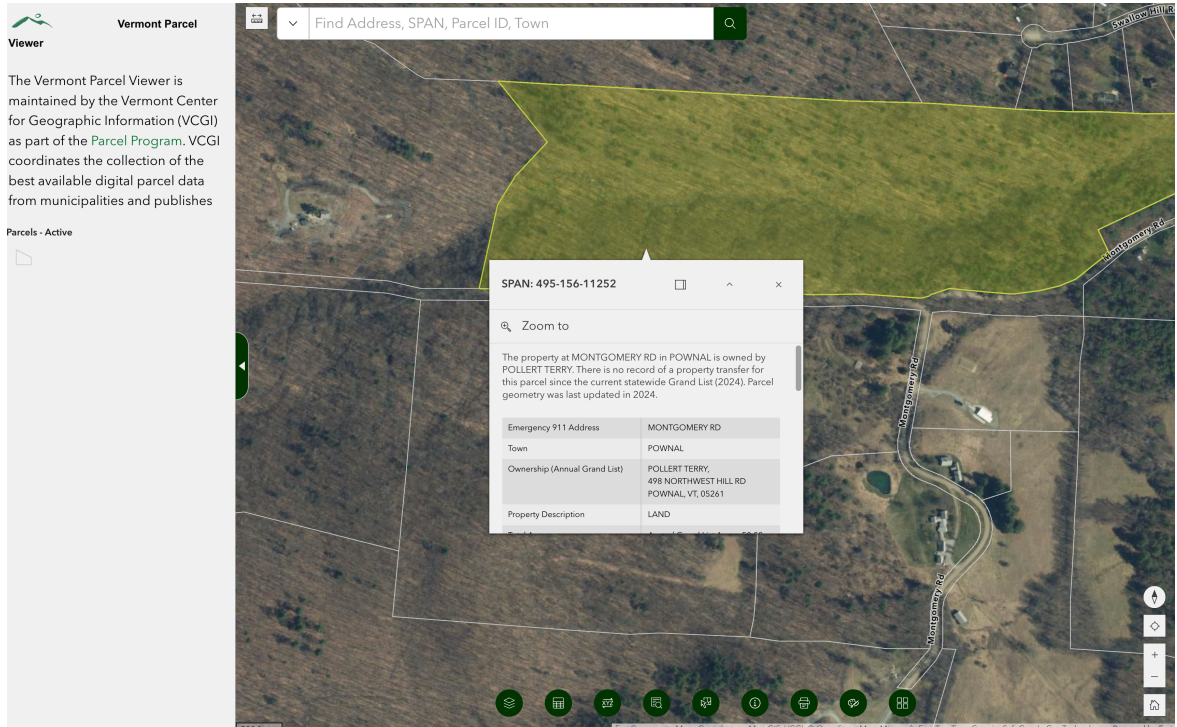
V.S.A. § 248a Order (“Standards and Procedures Order”) provides that: If the applicant makes a substantial change to the proposed project, the applicant is required to serve notice of this change on all parties and entities already notified, including any newly affected adjoining property owners. Parties and entities will then have 30 days to comment on the revised project. For the purpose of this subsection, a substantial change is one that has the potential for significant impact with respect to any of the criteria applicable to the project. (Citing *Investigation into revised standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Case No. 22-5122-INV, Order of 1/18/23 at Attachment.)

II. Failure to Notify Adjoining Property Owners

In the present case, the locus property is adjoined by five land parcels. Petitioner has properly notified three.

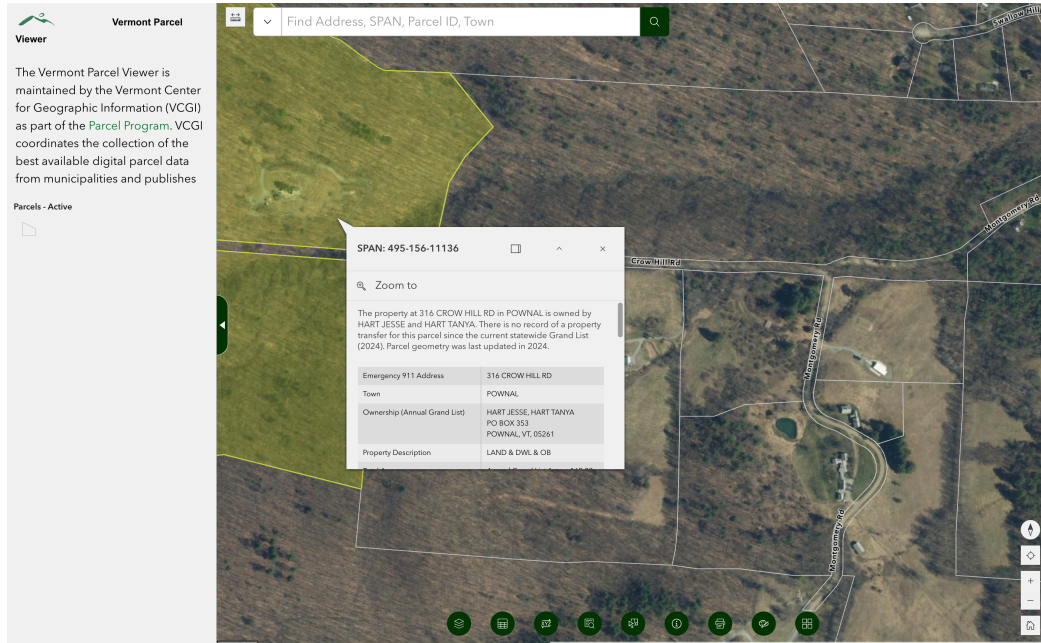
A. Terry Pollert: Notified

The first of the five adjoining properties, to the immediate north of the locus property, is Span Number 495 156 11252, owned by Terry Pollert, depicted below. This landowner was notified by Petitioner in both the Advance Notice and June 20, 2025 Substantial Amendment Notice.



B. Tanya and Jesse Hart: Notified

The second adjoining property, to the north and west of the locus property, is Span Number 495-156-11136, owned by Tanya and Jesse Hart. They have been notified of both the Advance Notice and Substantial Change.



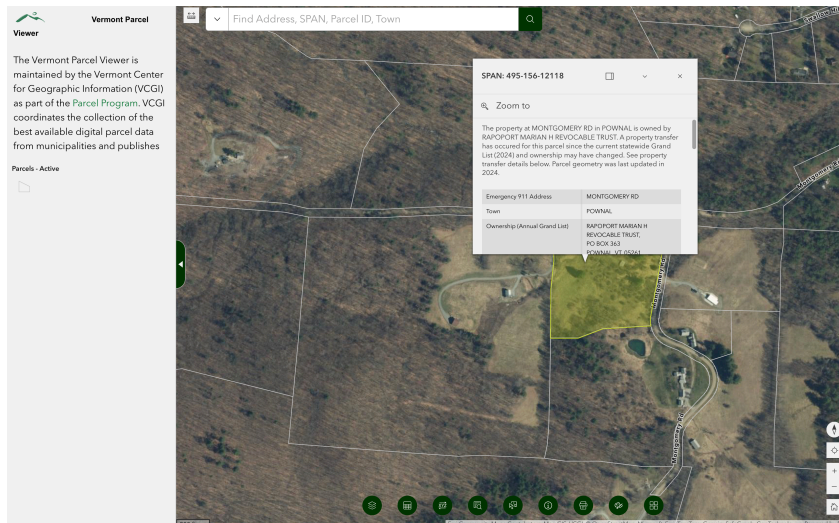
C. Four Directions LLC: Not Notified

The third parcel adjoining the locus parcel is listed in the Grand List as owned by the Marian Rapaport Revocable Trust; however the online Grand List database notes that a transfer has occurred since the closing date of the database. Land records in the Town of Pownal indicate at Book 189 Page 135 that on September 18, 2024, the property was transferred to Four Directions LLC, with a place of business in North Adams, MA. The Lister's Card lists the property as owned by Four Directions LLC with an address of 184 East Main Street, North Adams MA.

Neither Petitioner's Advance Notice nor their Substantial Change Notice list Four Directions LLC or the address of 184 East Main Street, North Adams MA as having been notified. For this parcel span number, in the Advance Notice the Petitioner listed Kathryn and

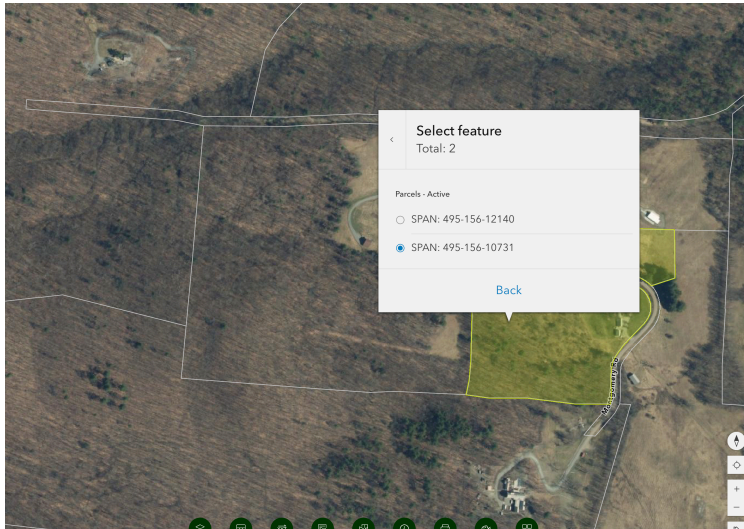
Ashley Benson in Williamstown, MA. In their notice of Substantial Change, Petitioner lists the owner of this parcel as the Marian Rapaport Revocable Trust with a Pownal Address (in other words, in their Substantial Change notification, Petitioner went backwards and notified a prior owner.) Both of these notifications are incorrect.

Landowner Four Directions LLC was not served with either the Advance Notice or the Substantial Change Notice.

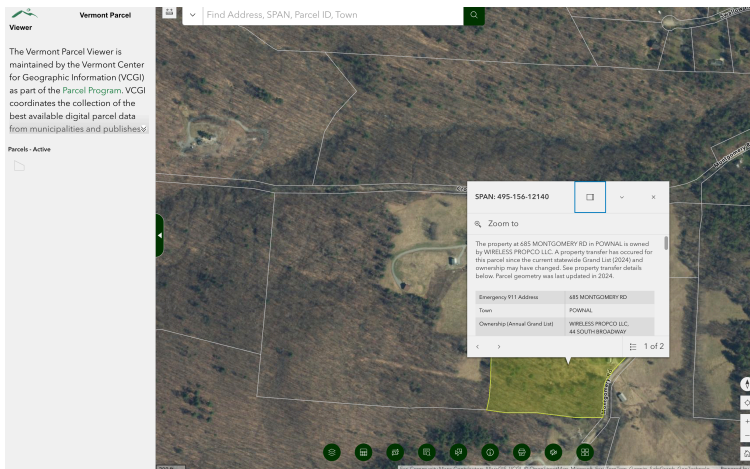


D. Terry Paul Brown, Jr., David Wilkerson and Jane Wilkerson: Not Notified

The next adjoining parcel, to the east of the property, has two span numbers: 495-156-12140 and 495-156-10731. Petitioner has not listed Span Number 10731 on either of their notification filings. They list Parcel 495-156-12140 as owned by Cellco Partnership/Verizon Wireless. That listing refers to a telecommunications tower lease located on the property.



The online parcel database lists both parcels as owned by Genesis Pownal VT LLC, and notes that the property has been transferred since the closing of the grand list on which the parcel map is based:

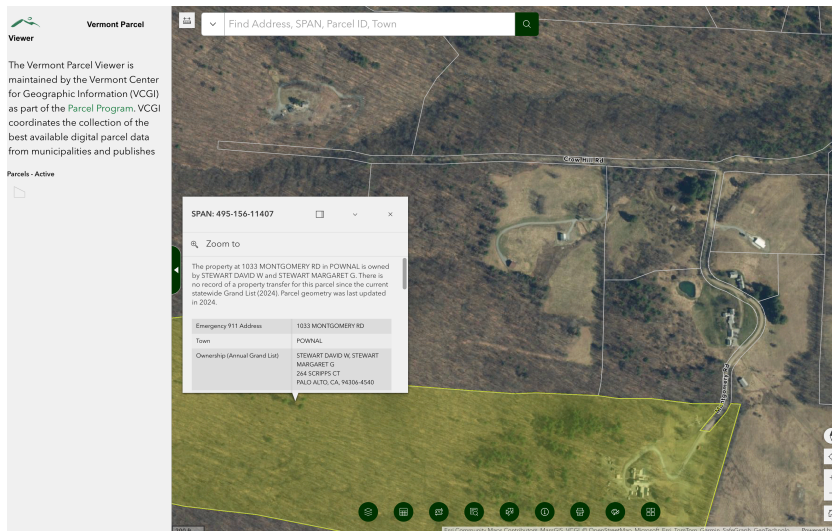


Pownal town land records indicate at Book 188 Page 175 that on May 28, 2024, the parcel was transferred from Genesis Pownal VT LLC to Terry Paul Brown, Jr., David Wilkerson and Jane Wilkerson. The listers' card reflects these same owners, with a mailing address in Nashville, TN.

Landowners Terry Paul Brown, Jr., David Wilkerson and Jane Wilkerson were not served with either the Advance Notice or the Substantial Change Notice.

E. David and Margaret Stewart: Notified

The final adjoining parcel, Span No. 495-156-11407, is owned by David and Margaret Stewart, who are listed on Petitioner's Notice List.



CONCLUSION

Petitioner has failed to follow the statutory and regulatory notice provisions regarding their Advance Notice. They have failed to notify two of the five adjoining landowners. This omission deprived those owners of their statutory right to review, comment, and intervene from the outset. It is not a harmless clerical error. It is a material procedural defect that renders the petition incomplete under § 248a(e) and warrants dismissal with prejudice. Please see **Exhibit A**

Declaration of abutter, Terry Brown.

Petitioner's failure to appropriately notify 40% of the adjoining property owners in this case, on two occasions, is more egregious because the information regarding those property owners was easily available in online parcel databases, which clearly indicate that these two parcels had changed hands, thus triggering the need to follow up in the Town land records to determine the current owner. In one case, Petitioner wholly ignored one of the SPAN numbers which is readily apparent in the online parcel viewer.

Petitioner has moved for leave to amend the project a second time on July 21, 2025. On July 22, 2025, the Hearing Officer issued an order asking for comments in response to Petitioner's Second Motion for Leave to Amend to be filed by August 8th, 2025. Petitioner asserted that the changes inherent to their Second Motion for Leave to Amend are not "Substantial Changes".

Regardless of the Hearing Officer's determination on the point of whether the proposed amendment is substantial, two of the five adjoining property owners here have never been notified of the pending Petition. Their failure has deprived those landowners of the opportunity to participate; has deprived the Town and the Harts of the insights, knowledge and perspectives of those adjoining property owners; and has wholly unnecessarily caused the Harts to expend time and money researching the adjoining landowners, which is the Petitioner's job.

Petitioner has failed to comply with statute and with this Commission's Rules pertaining to notice of adjoining property owners. Petitioner also failed to comply with this Commission's

06/18/2025 Order which directed them to notify all parties which had previously received notice.

This Petition should accordingly be Dismissed, with the directive that if Petitioner wishes to refile their Petition, they must follow all filing procedures, starting with Advance Notice, and ensure that all persons entitled to notice by statute and rule, including all adjoining landowners, are appropriately notified.

Respectfully submitted this 13th day of August, 2025 in Pownal, Vermont,

/s/ Tanya Hart

Tanya Hart

/s/ Jesse Hart

Jesse Hart

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