
Date: December 8, 2017

To: Wind Action Group

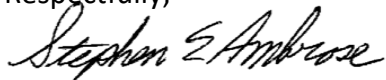
Ref: Courts Uphold Wind Turbine Noise Limits

Neighbors have received great news from two recent court decisions, whereas acoustic experts were humbled by judges citing their research. These decisions have lengthy discussions leading to definitive decisions, which are very applicable for wind turbine sites in Massachusetts and New Hampshire.

- 1) Barnstable Superior Court decision^{1,2,3} found Falmouth wind turbines to be a nuisance at 40 dBA and 2625-ft from neighbors.
 - This decision fits two wind turbine sites in Plymouth: one with noise complaints at 1300-ft (FGW), and other without at twice the distance (Camelot Wind).
 - Applicable to Bourne, Scituate, Fairhaven, Kingston, and Falmouth (Notus).
- 2) US District Court decision⁴, found that a “not-to-exceed” noise limit is Lmax.
 - This decision should require the MassDEP Noise Policy to strictly enforce noise source Lmax.

These decisions are benchmarks for strengthening public health protections.

Respectfully,



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¹ “Wind 1 & 2 cease and desist” judgement; 1472CVD0003, *Town of Falmouth vs. Falmouth Zoning Board of Appeals et al*, Barnstable Superior Court, Barnstable, MA., 21 Jun 17.

http://s3.amazonaws.com/windaction/attachments/2942/Judge_Moriarity_Decision_JUNE_2017.pdf

² *ibid* 1, pg 7 ln 32: “In order to achieve a decibel level of less than 40dB(A), a wind turbine that can produce 108dB(A) should, as a general rule, be setback at least 800 meters (approximately 2,625-ft) from the property line.”

³ *A Critical Review of Scientific Literature, Wind Turbines and Health*, Robert J. McCunney, MD, MPH et.al., Fig 3, pg e110, *Journal of Occupational and Environmental Medicine*, Vol. 56, No. 11, Nov 2014. <http://journals.lww.com/joem/Pages/articleviewer.aspx?year=2014&issue=11000&article=00009&type=Fulltext>

⁴ United States District Court, Eastern District of Michigan, Northern Division, Case No.-cv-10497, *Tuscola Wind III, LLC, v Almer Charter Township, et al*, Opinion and Order Affirming the Decision of the Almer Charter Township Board of Trustees, Thomas Ludington. US District Judge, Nov. 3, 2017. http://s3.amazonaws.com/windaction/attachments/2988/Tuscola_III_v_Almer_Township_Order.pdf
