



Legal Briefs

What constitutes “malfeasance” to justify removal of a land use board member?

“Malfeasance in office” is cause for removal from a land use board under RSA 673:13. The only New Hampshire Supreme Court case decided under this statute is *Williams v. Dover*, 130 N.H. 527 (1988), where the removal of a planning board member was overturned because the conduct in question took place in his private capacity. In *Williams* the court did refer to a general definition given in Black’s Law Dictionary: “wrongful conduct that affects, interrupts or interferes with the performance of official duties.” 130 N.H. at 529. The treatise McQuillin on Municipal Corporations (3d ed.) sec. 12.237 and 12.237.10, vol. 4, pp. 441-452, discusses the terms “malfeasance, misfeasance, and misconduct.” In reviewing cases from many states, the treatise observes that generally these terms refer to intentional wrongdoing, rather than mere error, mistake, negligence or ignorance. There is often an element of fraud or corruption. For example, *Quinn v. Concord*, 108 N.H. 2424 (1967) (mayor directing police officer to file false report).

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