



In re Taft Street Appeals

DECISION ON MOTIONS

This matter involves two separate municipal appeals relating to Jason Struther’s (Appellant) backyard farming activities, which involve both cannabis cultivation and the raising of ducks on his property located at 8 Taft Street, Essex Junction, Vermont (the Property).

The first appeal involves a determination by the City of Essex Junction (City) Administrative Officer (AO) declining to enforce the City’s Land Development Code’s (LDC) prohibition of Agriculture and Cannabis Cultivation, as those terms are defined by the LDC, in the R-1 Zoning District in which the Property is located. Neighboring landowners Stephen and Sharon Wille Padnos (Neighbors) appealed this determination to the City’s Development Review Board (DRB), which affirmed the AO’s decision that the City could not prohibit a cannabis cultivation establishment. The DRB reversed the AO’s determination regarding Appellant’s duck farming activities and instead concluded that agriculture is prohibited in the R-1 Zoning District. Appellant appealed the DRB’s decision to this Court, which has been assigned Docket No. 23-ENV-00120. Neighbors filed a cross-appeal.

The second appeal involves a Notice of Violation (NOV) issued on November 20, 2023 by the AO regarding Appellant’s duck farming activities. Appellant appealed the NOV to the DRB, which affirmed the issuance of the NOV concluding that Appellant’s duck farming activities were in violation of the LDC. Appellant appealed the DRB’s decision to this Court, which has been assigned Docket No. 24-ENV-00003. Neighbors again filed a cross-appeal.

In a decision dated August 7, 2024, this Court concluded that Appellant’s duck farming operations were exempt from municipal regulation under 24 V.S.A. § 4413(d)(1)(A). In re 8 Taft Street,

Nos. 23-ENV-00120, 24-ENV-00003 slip op. at 12 (Vt. Super. Ct. Env'tl. Div. Aug. 7, 2024) (Walsh, J.). Later, in a decision dated August 29, 2024, this Court concluded that Appellant's licensed outdoor cannabis operations were similarly exempt from municipal regulation. In re 8 Taft Street Appeals, Nos. 23-ENV-00120, 24-ENV-00003 slip op. at 4 (Vt. Super. Ct. Env'tl. Div. Aug. 29, 2024) (Walsh, J.). Both decisions were appealed to the Vermont Supreme Court. In a May 30, 2025 decision, the Supreme Court reversed and remanded the matters back to the Environmental Division. In re 8 Taft Street DRB & NOV Appeals, 2025 VT 27, ¶ 1.

The Vermont Supreme Court concluded that 24 V.S.A. § 4413(d)(1)(A) only prohibits municipal regulation of agricultural land-management standards intended to protect Vermont's waters. Id. ¶ 23. Similarly, the Supreme Court concluded that 7 V.S.A. § 869(f)(2) only prohibits municipalities from regulating water quality practices established by the Secretary of Agriculture. Id. ¶ 25. In doing so, the Supreme Court reversed our conclusions and remanded for further proceedings.

The Court and parties held a status conference in which all parties agreed that this case could be decided based on the previously filed motions for summary judgment. Accordingly, we have reviewed those motions and agree that no further proceedings are necessary.

Undisputed Material Facts

We hereby incorporate the undisputed material facts from the August 7 and August 29 Decisions. Those factual findings were not challenged on appeal and are still applicable to the legal dispute between the parties. For purposes of deciding the pending motions, only the following facts are relevant to our determinations.

1. Jason Struthers (previously defined as Appellant) owns the property at 8 Taft Street in Essex Junction, Vermont (previously defined as the Property).
2. The Property is .52 acres in size.
3. Appellant currently owns 50 ducks which he raised from eggs. Appellant sells live ducks and duck eggs produced by his ducks.
4. Appellant also operates a commercial cannabis growing operation at the Property through his company, Trichome VT, LLC.
5. The Property is located in the R-1 Zoning District, pursuant to the City of Essex Junction's Land Development Code (previously defined as the LDC).

Discussion

The City of Essex Junction's Land Development Code provides that:

The raising, keeping, or harboring of livestock, wild animal or other domesticated farm animals for personal use or commercial purposes shall be prohibited in all Zoning Districts, except for the Planned Agricultural (PA) and Planned Exposition (PE) Districts.

City of Essex Junction LDC § 724.

Appellant's duck-farming operations clearly fall under this prohibition against the raising, keeping, and harboring of livestock, wild animals, or other domesticated farm animals. This prohibition is not related to water quality practices. Under the Vermont Supreme Court's reasoning, this is a permissible form of municipal regulation. Appellant's Property is located in the R-1 Zoning District and not the Planned Agricultural or Planned Exposition Districts. Because there are no material facts in dispute, we **GRANT** the City's motion for summary judgment and conclude that Appellant's duck farming activities are prohibited by the LDC.

With respect to cannabis, the LDC's table of uses lists cannabis cultivator establishments as a use which is only permitted in the Planned Agriculture District. Thus, by implication, Appellant's licensed outdoor cannabis operations are prohibited in the R-1 Zoning District in which the Property is located.¹ As the Vermont Supreme Court has explained, this prohibition is permissible because it does not regulate water quality practices. Thus, because there are no material facts in dispute, we **GRANT** Neighbors' motion for summary judgment on cannabis and **DENY** Appellant and the City's motions and conclude that Appellant's cannabis operations are prohibited by the LDC.

This concludes the matter before the Court. A Judgment Order accompanies this Decision.

Electronically signed September 3, 2025 pursuant to V.R.E.F. 9(D).



Thomas G. Walsh, Judge
Superior Court, Environmental Division

¹ The City has recently amended the LDC to include language providing that any use not listed as a permitted or conditional use is prohibited. See LDC § 622(E) (as revised February 26, 2025). While this language provides helpful clarity, the 2023 LDC similarly prohibits cannabis cultivation establishments by virtue of it being a listed use category that is not allowed in the R-1 Zoning District as either a permitted or conditional use.