

VERMONT SUPERIOR COURT
Environmental Division
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Docket No. 24-ENV-00092



Chompupong DRB Decision Appeal

ENTRY ORDER

Motion: Appellants' Motion to Disqualify Counsel for the Town of Manchester

Filer: Karen Geriak and Adam Dworkin, Appellants

Filed Date: September 10, 2025

Town of Manchester's Opposition to Motion to Disqualify Counsel, filed on Sept. 11, 2025,
by Merrill Bent, Esq.

The motion is DENIED.

This is an appeal by Karen Geriak and Adam Dworkin (Appellants) from a decision of the Town of Manchester (Town) Development Review Board (DRB) upholding the Zoning Administrator's issuance of a sign permit to Vonnarat Chompupong (Applicant) for the replacement/reconstruction of a freestanding sign located at 4659 Main Street in Manchester, Vermont (the Property). Presently before the Court is Appellants' Motion to Disqualify Counsel for the Town of Manchester.

Appellants contend that the Town's counsel, Attorney Merrill Bent, has a disqualifying conflict of interest due to prior legal work performed on their behalf by Attorney Bent's law partner, Edgar Campbell.¹ They argue that Attorney Campbell's prior legal work is substantially related to the current zoning appeal and that "[t]he Town's current legal position – that Appellants lack standing – is 'materially adverse' to the Appellants' interests." Appellants state that this conflict is imputed to every lawyer in the firm under Rule 1.10 of the Vermont Rules of Professional Conduct.²

The Vermont Supreme Court has recognized that motions to disqualify counsel due to conflicts of interest fall within the discretion of the trial court. Stowell v. Bennett, 169 Vt. 630, 631

¹ Both Attorney Campbell and Attorney Bent are named partners in the law firm of Woolmington, Campbell, Bent, & Stasny, P.C.

² Subject to certain exceptions, Rule 1.10(a) states: "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9"

(1999) (mem.) (“A motion to disqualify counsel is a matter that rests within the sound discretion of the trial court, and its ruling will not be disturbed absent an abuse of discretion”). “In Vermont, attorney conflicts of interest are addressed by the Vermont Rules of Professional Conduct, which state, ‘[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation.’” State v. Baker, 2007 VT 84, ¶7 (quoting and citing to V.R.Pr.C. 1.9(a)). Disqualification of counsel is a “drastic measure,” and the moving party bears the burden of supporting a motion to disqualify. See Cody v. Cody, 2005 VT 116, ¶¶ 16, 23 (quotation omitted).

Attorney Bent concedes that Appellants are former clients of her law firm and that Attorney Campbell performed estate planning work for Appellants. She states, however, that the estate planning work concluded prior to the pending appeal and that the firm has no ongoing relationship with Appellants (i.e., they are not current clients).³ Regarding her firm’s prior estate planning work for Appellants, Attorney Bent argues that such legal work is not “substantially related” to Appellants later zoning appeal of the sign permit. She notes that “[t]he firm never worked with Appellants in relation to the subject matter of this appeal.” The Court agrees.

While Attorney Campbell may have prepared the “Assignment of Membership Interests High Ridge Plaza LLC,” which assigned all of Appellants’ right, title and interest in High Ridge Plaza LLC to their trust (and accepted such assignment by the trust), that work was completed in May 2024. The appeal in this case was filed five months later, in October 2024. More important, there is no substantial relationship between the estate planning legal services that Attorney Campbell provided to Appellants – i.e., the transfer of an LLC to a trust and the acceptance of the same by the trust -- and their subsequent zoning appeal of a sign permit issued to their neighbor.⁴ These are simply not the same or substantially related matters. The Town’s support for Applicant’s challenge to Appellants’ standing

³ Appellants contend that Attorney Campbell invited an ongoing attorney-client relationship based on a single cursory sentence from an email: “please don’t hesitate to contact us at any time if you have questions or concerns about this or any other matter.” Appellants’ Ex. 1, 9/11/25. They fail to mention the preceding sentence, which clearly states, “I believe we’ve completed the work you have asked of us, so we will close your file.” *Id.*

⁴ Appellants argue that their estate planning work with Attorney Campbell is substantially related to the present matter because the Town is attacking the “legal effect” of that work. This is incorrect. The effect of Attorney Campbell’s work was to transfer Appellants’ interest in High Ridge Plaza, LLC, to the Dworkin-Geriak Family Trust. The Court has seen no evidence that any party has attempted to call this action into question.

does not change this analysis.⁵ The two matters – the estate work and the zoning appeal – remain different and unrelated.

Appellants also knew of Attorney Bent’s involvement in this appeal on behalf of the Town since at least October 2024. They knew or should have known that the Town was taking a position in support of the DRB’s decision, which Appellants have challenged.⁶ Nonetheless, Appellants did not raise an objection to Attorney Bent’s participation in this matter, or seek her disqualification, until three business days prior to the scheduled merits hearing.⁷

Although a party’s delay in raising a conflict of interest does not prohibit a court from deciding whether a conflict exists, the moving party’s unjustified delay may be fatal to a motion to disqualify counsel. See e.g., 32 Am. Jur. 2d Federal Courts § 161 (May 2025). Indeed, the Vermont Supreme Court has emphasized the importance of timeliness in connection with motions to disqualify to avoid such motions from being used as tactical devices and preventing the waste of legal resources. See e.g., In re Miller, 168 Vt. 585, 587 (1998). Similarly, in a criminal context, the Supreme Court has held that a defense motion to disqualify a prosecutor who has previously defended the defendant “is deemed waived unless the defense can demonstrate that due diligence would not have disclosed the facts” providing the basis for disqualification. In re J.J.P., 168 Vt. 143, 147 (1998).

In this case, in addition to Appellants failing to meet their burden to demonstrate a violation of V.R.Pr.C. 1.9(a), the Court finds that they unjustifiably delayed in bringing their motion to disqualify Attorney Bent. Appellants could have and should have brought this issue to the attention of the Court much sooner and their effort to do so now is untimely and prejudicial to the Town, and likely other parties to this action, because disqualification could result in the need to delay trial set to begin next week. To the extent any conflict exists, and the Court sees none, it is deemed waived.

⁵ Although Appellants aver that “the Town is supporting a motion to dismiss our appeal,” the Court finds significance in the fact that the Town has filed no arguments or exhibits in support of the Applicant’s Motion to Dismiss. At most, the Town has “agree[d] that the Court must have jurisdiction in order to decide the matters before it.” Corrected Memorandum in Opposition to Motion Disqualify Counsel, p. 2.

⁶ If the Town’s position was not apparent initially, it certainly should have been apparent after the Town opposed Appellants’ Motion for Summary Judgment and filed its own cross-motion for summary judgment.

⁷ Appellants argue that they asked Attorney Bent about the conflict they now allege by email dated February 3, 2025, and that Attorney Bent did not respond. Appellant’s Exhibit 1. The Court does not read Exhibit 1 in the same manner as Appellants and their liberal use of ellipses significantly changes the question posed to Attorney Bent in the email. The Court does not believe that Exhibit 1 put Attorney Bent on notice of the conflict of interest that Appellants now allege. Instead, Exhibit 1 appears to ask Attorney Bent how Ron Rodriguez, an interested person in this matter, High Ridge Plaza, LLC and the Town would approach a hypothetical lawsuit should an accident occur related to the sign at issue in this case.

Electronically signed on September 12, 2025, pursuant to V.R.E.F. 9(d).

A handwritten signature in blue ink, appearing to read "Joseph S. McLean". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joseph S. McLean
Superior Court Judge
Environmental Division