



164 North Willard Street Notice of Zoning Violation

**ENTRY ORDER**

Title: Motion for Summary Judgment (Motion #5)

Filer: Matthew A. Zidovsky, Esq.

Filed Date: May 1, 2026

Response to Appellant's Motion for Summary Judgment, filed May 30, 2026, by Melanie Jannery and Margaret Tamulonis, Pro Se

City of Burlington's Opposition to Appellant's Motion for Summary Judgment, filed June 5, 2026, by Kimberlee J. Sturtevant, Esq.

Appellant's Response to Jannery/Tamulonis Response to Appellant's Motion for Summary Judgment, filed June 11, 2026, by Matthew A. Zidovsky, Esq.

Reply in Support of Motion for Summary Judgment, filed July 2, 2026, by Matthew A. Zidovsky, Esq.

**The motion is GRANTED IN PART AND DENIED IN PART.**

This matter involves an appeal by Luke Purvis (Appellant) from the City of Burlington (City) Development Review Board (DRB)'s denial of an appeal of a notice of violation (NOV) issued for a property located at 164 North Willard Street, Burlington, Vermont.

Appellant moves for summary judgment, arguing that the NOV failed to adequately "state the facts giving rise to the alleged violation," as required by 24 V.S.A. § 4451(a)(2)(B). The City and Interested Persons Melanie Jannery and Margaret Tamulonis oppose the motion.<sup>1</sup> For the reasons discussed below, the Court concludes that the NOV adequately states the facts underlying the principal identified violation—allowing zoning permit ZP-21-275 to expire without obtaining a certificate of occupancy (CO). To the extent that the NOV (and subsequent DRB decision) suggest that any aspect of the work authorized by that permit and/or the approved project plans violates the terms and conditions of the permit, plans, or the City's Comprehensive Development Ordinance (CDO), we conclude that the NOV inadequately states the facts underlying those other alleged violations.

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<sup>1</sup> Ms. Jannery and Ms. Tamulonis own neighboring property located at 172 North Willard Street.

By way of background, the Court held a status conference with the parties on July 13, 2026. During that conference, the Court indicated that it had reviewed the parties' respective filings relating to Appellant's Motion for Summary Judgment. The Court observed that the City's response to the motion argued that the NOV was valid in that it stated the facts underlying the principal violation (i.e., the relevant zoning permit expired without the owner obtaining a CO), while conceding that additional language in the NOV (stating "the completed work appears inconsistent with the approved project plans (fence appears to have been at least partially built upon neighboring 172 Willard St.))" was merely illustrative of the principal violation. In other words, the City admits that those aspects of the NOV that address other "apparent" violations related to the work were not properly part of the NOV (i.e., they do not state the facts of separate, additional violations) and that the only enforceable part of the NOV relates to the failure to obtain a CO. Given this circumstance, the Court stated on the record that, while it had not made a definitive ruling, it would likely grant summary judgment in part and deny it in part. Based on this preliminary evaluation, the Court laid out two possible paths forward for the appeal—it could take the matter under advisement and issue a written decision on the motion for summary judgment or the parties could stipulate to a proposed Judgment Order (JO) regarding the validity of the NOV, without a written decision. The Court would then issue the stipulated JO, leaving appropriate next steps to the parties. The parties indicated that they understood these options and would confer and try to reach agreement regarding appropriate next steps. The Court gave the parties two weeks to determine how they wished to proceed. Despite inquiry from the Court regarding the status of their discussions, no stipulation has been filed. Therefore, the Court has determined that it is appropriate to issue this decision.

While the parties dispute certain facts that are immaterial to the outcome of this matter, the substance of the NOV is undisputed and material. Dated October 8, 2025, the NOV, which is addressed to Appellant and references a violation at 164 North Willard Street, Burlington, Vermont, provides in pertinent part:

**Description of Violation: Zoning Permit ZP-21-275 has expired without its required certificate of occupancy and the completed work appears to be inconsistent with approved project plans (fence appears to have been at least partially built upon neighboring 172 North Willard St.).**

Appellant argues that this language fails to meet the notice requirements of 24 V.S.A. § 4451(a)(2). In response, the City states that "[t]he description gives the facts that give rise to the Notice of Violation—ZP-21-275 has expired and doesn't have a required certificate of occupancy . . . While the additional description [noting that the work that is completed appears to be inconsistent with the approved project plans and giving the example of the fence] gives an example of the inconsistency, it does not take away from the clear identified violation—there is no certificate of occupancy." City's Opposition at 3. Similarly, the Affidavit of Scott Gustin, the Zoning Manager and Principal Planner for the City's Department of Permitting and Inspections, states that "[w]hile the NOV noted that the fence appeared to have been at least partially built upon neighboring 172 North Willard Street, that was part of the underlying facts of the violation that the property did not have a certificate of occupancy to close out the permit after the work was done and the permit had expired." Affidavit of Scott W. Gustin, ¶ 9. The Court agrees that the NOV adequately notifies Appellant regarding the expiration of his zoning permit and his failure to obtain a CO. Therefore, Appellant's motion for summary judgment is DENIED to the extent that it argues the NOV does not state the facts

underlying that alleged violation. However, summary judgment is GRANTED to Appellant on the issue of whether the NOV adequately identifies the facts giving rise to any other violation related to the “completed work.” It does not do so, and the City concedes that its reference to the work’s inconsistency with the approved project plans and the fence partially built on neighboring property simply describes “the underlying facts of the violation that the property did not have a certificate of occupancy.” Id. In other words, notwithstanding any other language in the NOV, it establishes only one properly identified violation involving Appellant’s failure to obtain a CO prior to permit expiration.

Since this matter is an appeal of an NOV, not an enforcement action, this order concludes proceedings before this Court. Appellant and the City will confer and determine appropriate next steps. This may include Appellant filing a proper application for a CO with the City, which the City’s planning and zoning staff would then review to determine whether the property is in compliance with the relevant zoning permit and whether a CO may be issued.<sup>2</sup> As the Court understands it, if the City denies the CO application, it will detail for Appellant the reasons for denial, identifying all areas of noncompliance. If Appellant elects not to file an application for a CO, the City may also determine whether to pursue enforcement action.

Accordingly, because the material facts in this case do not present a dispute, Appellant’s motion is **GRANTED** in part and **DENIED** in part. A Judgment Order accompanies this decision.

Electronically signed on September 4, 2026, pursuant to V.R.E.F. 9(d).



Joseph S. McLean  
Superior Court Judge  
Environmental Division

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<sup>2</sup> The Court understands that litigation involving a boundary dispute between Appellant and Ms. Jannery and Ms. Tamulonis is presently pending in the Vermont Superior Court, Civil Division (Chittenden Unit) in Docket No. 26-CV-01602. The City may wish to await the outcome of that proceeding before making final determinations regarding any CO application or related matters that may come before it.