

SUPREME COURT OF VERMONT

32 Intervale, LLC v. City of Burlington

2026 VT 9 · No. 25-AP-248 · Decided April 10, 2026

SUMMARY

The Vermont Supreme Court affirmed dismissal of a declaratory-judgment action brought by Burlington property owners challenging short-term-rental ordinances. The Court held that the claim was premature because determining whether each property qualified as a preexisting lawful nonconforming use would require substantial property-specific factual findings and further proceedings before municipal authorities. The Court did not decide the appropriate jurisdiction for the substantive dispute.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Eaton, J.; Reiber, C.J.; Waples, J.; Drescher, J.; Zonay, Supr. J., specially assigned
JURISDICTION	Vermont Supreme Court
DECIDED	April 10, 2026
DOCKET	25-AP-248
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the Environmental Division's dismissal of their declaratory-judgment complaint for lack of subject-matter jurisdiction. The Vermont Supreme Court affirmed on the alternative ground that the claim was premature and not ripe for declaratory relief.
STANDARD OF REVIEW	De novo review of dismissal for lack of subject-matter jurisdiction; factual allegations are assumed true and reasonable inferences are drawn in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published and precedential Vermont Supreme Court opinion
PARTIES	32 Intervale, LLC et al. v. City of Burlington

TOPICS

- declaratory judgment
- ripeness
- subject matter jurisdiction
- ordinances
- municipal law

PRACTICE AREAS

municipal law

land use and zoning

civil procedure

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether plaintiffs' declaratory-judgment complaint was ripe when the City had not taken concrete enforcement action against their properties and plaintiffs had not obtained property-specific determinations from the zoning administrator.
2. Whether the requested determination that twenty-two properties were preexisting, lawful, nonconforming uses was appropriate for declaratory judgment despite requiring substantial, property-specific factual findings.
3. Whether the Environmental Division had jurisdiction over claims concerning Burlington's short-term-rental ordinance and whether 24 V.S.A. § 4472 provided the exclusive remedy.

HOLDINGS

1. The complaint was not ripe because plaintiffs alleged only a conjectural or hypothetical injury. The City had not taken concrete steps manifesting how or whether it would enforce the ordinances against plaintiffs' properties.
2. Declaratory judgment was unavailable because plaintiffs' requested determination required substantial factual findings concerning each individual property, including the timing, legality, and substantiality of each alleged preexisting use.
3. The Court did not reach whether the Environmental Division had jurisdiction over the short-term-rental ordinance or whether 24 V.S.A. § 4472 barred plaintiffs' claim.

KEY QUOTATIONS

“In all cases, “[t]he jurisdiction of Vermont courts is limited to deciding actual cases or controversies involving litigants with adverse interests.”” (¶ 23)

“A claim is not ripe if the claimed injury is conjectural or hypothetical rather than actual or imminent.” (¶ 24)

“The issue as presented by plaintiffs requires a premature adjudication of questions that would necessarily entangle the court in abstract and convoluted arguments inappropriate for declaratory judgment.” (¶ 25)

“Thus, per plaintiffs’ own explanation of the process, plaintiffs’ complaint is not merely a request for a “declaration of rights, status or other legal relations,” it is a request for twenty-two separate fact-dependent inquiries performed by the Environmental Division in the guise of a declaratory judgment.” (¶ 27)

FACTUAL BACKGROUND

Burlington enacted amendments in 2022 regulating short-term rentals, including restrictions that generally prohibited nonhost-occupied short-term rentals except in specified circumstances. Plaintiffs operated or sought to operate twenty-two short-term-rental properties and claimed that some were preexisting, lawful,

nonconforming uses exempt from the new restrictions. No concrete enforcement action had been taken against the properties, and plaintiffs had not first sought permits or determinations of non-applicability from the City or pursued the available administrative appeals process.

PROCEDURAL HISTORY

Seventeen Burlington property owners filed an action in the Environmental Division seeking a declaration that their twenty-two nonowner-occupied short-term-rental properties were preexisting, lawful, nonconforming uses exempt from recently enacted city ordinances. The Environmental Division dismissed for lack of subject-matter jurisdiction, concluding that the challenged short-term-rental ordinance was outside its jurisdiction and that the requested determination required factual findings and pursuit of the statutory appeals process. The Supreme Court affirmed because the complaint was not ripe and declaratory judgment was inappropriate, while declining to decide the jurisdictional and exclusive-remedy issues.

DISPOSITION

affirmed

CASES CITED

- 32 Intervale, LLC v. City of Burlington, No. 24-AP-391, 2025 WL 1621457 (Vt. June 6, 2025) (unpub. mem.)
- Gould v. Town of Monkton, 2016 VT 84, ¶¶ 10, 16, 202 Vt. 535, 150 A.3d 1084
- Housing Our Seniors in Vermont Inc. v. Agency of Commerce & Community Development, 2024 VT 12, ¶ 11, 219 Vt. 80, 315 A.3d 1000
- Wool v. Office of Professional Regulation, 2020 VT 44, ¶ 8, 212 Vt. 305, 236 A.3d 1250
- Garger v. Desroches, 2009 VT 37, ¶ 2, 185 Vt. 634, 974 A.2d 597 (mem.)
- Doe v. Department for Children & Families, 2020 VT 79, ¶¶ 9, 16, 213 Vt. 151, 249 A.3d 665
- Doria v. University of Vermont, 156 Vt. 114, 117, 589 A.2d 317, 318 (1991)
- Wood v. Wood, 135 Vt. 119, 121, 370 A.2d 191, 192-93 (1977)
- Lace v. University of Vermont, 131 Vt. 170, 175, 303 A.2d 475, 478 (1973)
- Town of Shelburne v. Kaelin, 136 Vt. 248, 251-52, 388 A.2d 398, 400 (1978)
- Echeverria v. Town of Tunbridge, 2024 VT 47, ¶¶ 12, 18-19, 25, 219 Vt. 585, 325 A.3d 98
- Dernier v. Mortgage Network, Inc., 2013 VT 96, ¶ 39, 195 Vt. 113, 87 A.3d 465
- Gifford Memorial Hospital v. Town of Randolph, 119 Vt. 66, 71, 118 A.2d 480, 483 (1955)
- Negotiations Committee of Caledonia Central Supervisory Union v. Caledonia Central Education Association, 2018 VT 18, ¶ 9, 206 Vt. 636, 184 A.3d 236
- Killington, Ltd. v. State, 164 Vt. 253, 260-62, 668 A.2d 1278, 1283-85 (1995)
- In re Snowstone LLC Stormwater Discharge Authorization, 2021 VT 36, ¶ 28, 214 Vt. 587, 256 A.3d 62
- Burlington School District v. Provost, 2019 VT 87, ¶ 15, 211 Vt. 277, 224 A.3d 841
- Maryland Casualty Co. v. Pacific Coal & Oil Co., 312 U.S. 270, 273 (1941)

- Levinsky v. State, 146 Vt. 316, 317, 503 A.2d 534, 536 (per curiam)
- State v. Eldert, 2015 VT 87, ¶ 21, 199 Vt. 520, 125 A.3d 139

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