

## **Municipality has Authority to Prohibit Hunting on Lands it Owns and Leases**

In a November decision, the Vermont Supreme Court held that a municipality has the authority to prohibit hunting and trapping on land it owns and leases. *Hunters, Anglers and Trappers Association of Vermont, Inc., v. Winooski Valley Park District*, 2006 VT 82. The case involved the Winooski Valley Park District, a union municipal district. The District owns and leases approximately 1,864 acres and manages the land as a public park. While the park is open for a variety of uses, the District does not allow hunting, shooting or trapping and has posted the property under 10 V.S.A. § 5201, the statute that authorizes private owners to post their property.

In February 2003, Hunters, Anglers and Trappers Association of Vermont (HAT) filed a complaint in Chittenden Superior Court seeking an injunction to prevent the District from prohibiting hunting and trapping in the park. In January 2005, the Superior Court entered judgment in favor of the District. HAT appealed, alleging, among other things, that the District's ban on hunting and trapping violated both the Vermont Constitution's protection of the right to hunt and 24 V.S.A. § 2295. The statute provides, in relevant part:

Except as otherwise provided by law, no town, city or incorporated village, by ordinance, resolution or other enactment, shall directly regulate hunting, fishing and trapping or the possession, ownership, transportation, transfer, sale, purchase, carrying, licensing or registration of traps, firearms, ammunition or components of firearms or ammunition.

With regard to HAT's constitutional claim, the Supreme Court noted that while the Vermont Constitution provides hunting rights, it also vests the Legislature with the power to regulate hunting and trapping, even on privately held lands. So long as the Legislature had properly delegated its authority to the District, the District's prohibition of hunting and trapping in the park would not violate any constitutional right. While 24 V.S.A. § 2295 was intended to prevent a municipality from banning hunting and trapping on private property, the statute does not prohibit a municipality, acting in a proprietary function, from managing its own lands in the interests of recreation and conservation, including posting its property in accordance with 10 V.S.A. § 5201. Thus, the District's actions in posting the park to ban hunting and trapping were not only authorized by the Legislature, but also free of any statutory or constitutional prohibition.

This decision clarifies some confusion surrounding the authority to regulate hunting and trapping on municipal property. As noted by the Supreme Court, 24 V.S.A. § 2295 was intended to prevent a municipality from regulating hunting on private property, as such regulations would interfere with the State's regulatory prerogatives and the rights protected by the Vermont Constitution. Neither of these concerns is implicated when a town sets conditions on the use of its own land. For a copy of the decision, visit [http://dol.state.vt.us/gopher\\_root/supct/current/2005-056.op](http://dol.state.vt.us/gopher_root/supct/current/2005-056.op)  
- Jim Barlow, Attorney, VLCT Municipal Assistance Center

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