

FINDING THE LAW – BASIC LEGAL RESEARCH FOR VERMONT MUNICIPAL OFFICIALS

A. SOURCES OF STATE AND FEDERAL LAW

Your authority as a selectboard member is derived solely from Vermont state law. Therefore, it is not only important that you act within the law, but also that you know when you are authorized to act. Sources of state law include the written laws passed by the Vermont Legislature (statutes), case law (the set of legal principles developed and explained by the Vermont Supreme Court in its written opinions), and the Vermont Constitution. But this is not the end of the story. Other laws, both federal and state, often impact the operation of local government. Such laws include, for example, administrative regulations promulgated by federal or state agencies, federal statutes and case law, and the United States Constitution.

B. VERMONT STATUTES ANNOTATED

Most legal research on a municipal issue starts with Vermont Statutes Annotated. This hardbound compilation of state statutes is arranged by title and section. A citation to 24 V.S.A. § 2431, refers to section 2431 of title 24 of Vermont Statute Annotated. Bound copies of the statutes (the “green books”) are typically maintained at the town clerk’s office and in public libraries. An electronic version of the state statutes is also maintained by the legislature at <http://legislature.vermont.gov/statutes/>.

To aid researchers, VLCT publishes a Municipal Index to Laws Affecting Local Government. You can get a paper copy of the Index by calling VLCT at 800-649-7915, or you can view it at http://www.vlct.org/assets/MAC/2015_Municipal_Index.pdf.

C. SUPPLEMENTS TO VERMONT STATUTES ANNOTATED

When consulting the statutes, your research is not complete until the most current version of the law is found. In order to find the most current version of a statute, one should review the same section in the annual supplement, commonly called the “pocket part.” The annual supplement is typically a paper pamphlet, located at the rear of the hardbound book. Sometimes supplements are printed in separate softbound booklets. The legislature’s electronic version of the statutes is updated regularly, obviating the need for a supplement. There is no electronic corollary to the published paper supplement to the hardbound versions.

D. RECENT LEGISLATION

If there is nothing in the supplement under the title and section number at issue, then the hardbound version is usually the most current version of the statute. However, from the close of the legislature’s annual session (usually late May or early June) to the publishing of the next annual supplement (usually January), it is a good practice to check for any new legislation on the issue you are researching. This is true even when using the electronic version of the statutes, which are typically not updated until October. The easiest way to do this is to review the Vermont Legislative Bill Tracking System at <http://legislature.vermont.gov/reports-and-research/>.

Finding new legislation can be difficult. While the Legislative Bill Tracking System has a keyword search tool, finding a relevant bill may not be possible if you don't know the proper keywords to use or the bill or Act number. Therefore, we suggest that you also consult the VLCT Legislative Wrap Up, published annually at the close of each legislative session. The document is posted online at <http://www.vlct.org/advocacy/session-wrap-up/> or you can get a paper copy by calling the League at 800-649-7915.

Deciphering the Code: Understanding Legal Citation

The annotations in Vermont Statutes Annotated are written in the following format: *Town of Brookline v. Town of Newfane* (1966) 126 Vt. 179, 224 A.2d 908. Here is the key to deciphering the code:

- *Town of Brookline v. Town of Newfane* is the title of the case. The first party listed (Town of Brookline) is the plaintiff – the party that first brought the suit. The second party listed (Town of Newfane) is the defendant – the party that was sued.
- (1966) indicates the year the Supreme Court issued its opinion in the case.
- 126 is the volume number of the series where the court's complete written opinion is published. Vt. stands for Vermont Reports (published by West Publishing), the reporter, or court case series, containing the opinion. 179 is the page number in volume 126 where the case begins.
- 224 is the volume number of another series where the court's complete written opinion is published. A.2d stands for Atlantic Reports Second (a regional compilation of state court cases also published by West Publishing). 908 is the page number in volume 224 of Atlantic Reports Second where the case begins.
- The party that appeals a case to the Supreme Court (the party dissatisfied with the prior decision) may be either the plaintiff or defendant, and, depending on the ultimate disposition of the case, may end up winning (a decision of "reversed" or "vacated and remanded") or losing ("affirmed").

E. STATE CASE LAW

Even when the applicable statute is found, the researcher's task is usually not complete. One or more annotations often appear in smaller print below the text of each statute printed in Vermont Statutes Annotated. These annotations are brief summaries (but not quotes) of Vermont Supreme Court cases that interpret the statute. Not every statute has annotations because not every statute has been interpreted by the Supreme Court. The legislature's electronic version of the statutes does not have any annotations.

Although annotations are helpful in understanding how the statute has been interpreted, a thorough legal researcher will not rely on them completely. The annotations are only case summaries; they are not actual statements of law. To get the final word, one must review the actual case.

Finding published cases can be difficult. The Vermont Supreme Court publishes its written opinions at http://libraries.vermont.gov/law/supreme_court but the published cases only date back to 2006. For earlier cases, you must either look to a subscription based online service

(e.g., Lexis or Westlaw), or any of the free online legal research engines such as the Legal Information Institute (<https://www.law.cornell.edu/>) or Justia (<http://law.justia.com/>). You can also check with your local public library or the Superior and/or District Court in your county. Those in the Washington County area can visit the Vermont Supreme Court law library in Montpelier.

F. STATE REGULATIONS

Other state laws binding on the town include the regulations passed by state administrative agencies (e.g., Agency of Natural Resources, Agency of Transportation, Agency of Agriculture, Food, and Markets). A complete list of Vermont's administrative agencies is posted at <http://www.vermont.gov/portal/government/atoz.php>. To get a copy of an agency's regulations, make a request to the agency itself, or visit the agency's website. Most Vermont agencies have published their regulations online.

G. SOURCES OF FEDERAL LAW

Federal law may also influence local action. Federal statutes are published in the United States Code (U.S.C.) and can be found at <http://www.gpoaccess.gov/uscode/>. Federal regulations are published in the Code of Federal Regulations (C.F.R.) and are posted at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>. Most federal agencies also maintain their own websites. Helpful resources for Vermont municipal officials include websites maintained by the Environmental Protection Agency (<http://www.epa.gov/>), the Internal Revenue Service (<http://www.irs.gov/>), the U.S. Forest Service (<http://www.fs.fed.us/>), and the Department of Labor (<http://www.dol.gov/>).

For Vermont federal district court opinions and rules, go to the United States District Court's website at <http://www.vtd.uscourts.gov/>. Opinions of the United States Court of Appeals for the Second Circuit (which covers Vermont, New York, and Connecticut) are posted at <http://www.ca2.uscourts.gov/>.