

Superior Court Upholds Town's Domestic Animal (Livestock) Ordinance

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*He shudders his coat as if to throw off flies.
'Whoever it is that leaves him out so late,
When other creatures have gone to stall and bin,
Ought to be told to come and take him in.'*

from "The Runaway," by Robert Frost

Calais Town officials have been telling the Defendant in the case *Town of Calais v. Elisabeth Shedd*, No. 22-CV-1894 (2022), to come and take her horses in for years, but to no avail.

Elisabeth Shedd ("the Defendant") resides at an 11-acre, off-grid property in Calais consisting of two barns and two shelters for animals, all of which are in a state of disrepair. The property is also home to the Defendant's four horses, which she attempts to confine with a rudimentary and substandard paddock made of saplings tied to fence posts with rope and twine. The horses have either escaped or been intentionally freed by the Defendant on dozens of occasions over the years and have been found wandering all around the town and on its roads at all times of the day throughout the year. In 2021 alone, the town constable/animal control officer received a total of 53 email complaints and an average of two telephone call complaints per week about her horses. Despite the countless complaints and fruitless attempts from the Town to get the Defendant to confine her horses to her property, the Town finally had enough and adopted an "[Ordinance to Regulate Livestock Running at Large.](#)" The ordinance did little to deter the Defendant, who continued to permit her horses to run at large, but authorized the Town to take action. After receiving numerous additional complaints that the Defendant's horses were seen loose on Route 14 and running through peoples' yards, the town constable/animal control officer impounded the horses for violating the Town's ordinance.

The Town brought this action in the Washington County Superior Court (“Court”) to enjoin (i.e., prevent) the Defendant from keeping horses or any other livestock at her property ever again. The Court denied the requested relief but only because doing so, “would be beyond the scope of the Ordinance itself, which contains no provision authorizing a permanent forfeiture of the right to keep livestock within the Town.” The Court, however, did permanently enjoin the Defendant from allowing her horses to run at large in the town and from taking her horses for walks on or along any of its roads without being under her physical control. The Court also permitted the Town to decide what the Defendant must do to get her horses back, including reimbursing the Town for its impoundment expenses (e.g., boarding, feed, and veterinary costs), all because their ordinance allowed it. According to the Court, such enforcement is possible because, by statute, municipalities have been granted certain regulatory powers, including the power to “define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require ...” 24 V.S.A. § 2291(14). Declaring livestock, such as horses, running at large to be a public nuisance is “a reasonable exercise of the Town’s regulatory powers and falls squarely within the scope of its statutory authority.” As the Court rightly recognized,

Having horses loose on a public road is a significant public safety hazard because of the serious risk they pose to drivers ... An unattended horse can also pose a danger to neighbors, particularly children, who could be kicked, bitten or trampled by an unexpected horse on the loose in the yard. Horses can also cause property damage, and they can carry diseases contagious to other livestock on neighboring properties.

The case is a Washington County Superior Court decision so it is not legally binding on municipalities statewide, as a Vermont Supreme Court decision would be. Nonetheless, the case confirms our long-held opinion that selectboards may regulate the running at large of domestic animals¹ as a nuisance, and not just under the self-executing authority of [Title 20, Chapter 191](#).

The outcome of this case is extremely encouraging news for any municipality that, like Calais, has perennial issues with livestock running at large. The financial penalties for these offenses under Vermont state law have been outdated for over a century, and the impoundment option is impractical for many municipalities. Being able to adopt a customized ordinance under their nuisance authority provides municipalities with the flexibility they need to tailor remedies to the specific problems their residents face.

The *Town of Calais v. Elisabeth Shedd* case is archived at the [Vermont Judiciary website](#).

¹ Domestic animals are defined as “cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo.” 6 V.S.A. § 1151(2).