

State of Vermont
Environmental Division
of the
Superior Court

Re: Request for Jurisdictional Opinion re:
Changes in Physical Structures and Use at
Burlington International Airport for F-35A
Vermont Air National Guard Jets

Environmental Court Docket No.42-4-13 Vtec
Jurisdictional Opinion #4-231

**APPELLANTS' REPLY TO THE CITY OF BURLINGTON'S MOTION FOR
PERMISSION TO FILE SUR-REPLY BRIEF, AND APPELLANTS' REQUEST TO
SUPPLEMENT BRIEFING BY CITING ONE ADDITIONAL CITATION**

The City of Burlington has filed a motion seeking permission to file a second reply brief in order to address the question whether the City has standing to challenge the constitutionality of a state statute. Appellants do not object to the City's request.

Appellants respectfully direct the Court to Town of Andover v. State, 170 Vt. 552, 742 A.2d 756 (1999), a copy of which is attached. This decision by the Supreme Court of Vermont was not cited by either Appellants or Appellee, yet it appears to control the issue whether the City may challenge the constitutionality of a state law. It would be a poor use of the Environmental Division's resources, and those of the parties, for the Court to rule on the pending motion without awareness of this decision. Therefore, Appellants ask that the Court accept this filing and grant the City whatever additional time it may seek to respond. See V.R.C.P. 56(f) ("After giving notice and an opportunity to respond," the court may grant summary judgment on grounds not raised by any party.) See also V.R.C.P. 81(d), authorizing the court to act consistent with the constitution, rules and statutes when no procedure is specifically prescribed.)

February 4, 2014

Richard Joseph et al.

BY:

James A. Dumont

James A. Dumont, Esq.