

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **ZONING & PLANNING - VERMONT**

### **In re Champlain Parkway Wetland Conditional Use Determination (Fortieth Burlington, LLC)**

**Supreme Court of Vermont - November 9, 2018 - A.3d - 2018 WL 5852616 - 2018 VT 123**

Objector appealed from decision of the Agency of Natural Resources (ANR) extending city's conditional use determination (CUD) which permitted city to commence construction of parkway project.

The Superior Court, Environmental Division, dismissed, and objector appealed.

The Supreme Court of Vermont held that:

- City was not required to redelineate and reevaluate wetlands on parkway project site prior to seeking extension of CUD;
- ANR's extension of CUD did not operate to excuse city from compliance with any other permit condition;
- City's request for extension of CUD constituted a "minor modification" that did not trigger the need for written approval from the Vermont Wetlands Office;
- Objector could not use appeal to collaterally challenge the city's compliance with the CUD's conditions, Vermont Wetland Rules and statute, or the underlying CUD; and
- While the identification of a newly identified wetland may have been germane to other permit conditions, it would not have been properly considered in a request that solely asked for a time extension of the original CUD.