

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

VERMONT RAILWAY, INC.,)	
Plaintiff)	
)	
v.)	Civil Action No. 2:16-cv-16
)	
TOWN OF SHELBURNE and)	
JOE COLANGELO in his capacity)	
as Town Manager and)	
Zoning Enforcement Officer,)	
Defendants.)	

**TOWN OF SHELBURNE’S PARTIAL OPPOSITION TO VERMONT
RAILWAY, INC.’S MOTION FOR ENTRY OF FINAL JUDGMENT ON THE
DECLARATORY ORDER CONCERNING ICCTA PREEMPTION**

NOW COMES Defendant, Town of Shelburne (“the Town”), by and through its attorneys, Monaghan Safar Ducham PLLC, and hereby opposes, in part, Vermont Railway, Inc.’s Motion for Entry of Final Judgment on the Declaratory Order Concerning ICCTA Preemption (“Motion for Entry of Final Judgment”). While the Town does not oppose the entry of *partial* final judgment it asserts that the proposed Partial Final Judgment put forth by Vermont Railway, Inc. (“the Railway”) does not accurately reflect the current procedural posture of this litigation.

“The Court reserve[d] judgment on the question of whether the ICCTA preempts other zoning regulations derived from the Town’s police powers that relate to the operation of the Railway’s proposed facility[,]” Opinion and Order at 3 (ECF No. 84); *see also* Opinion and Order at 1, n.1 (ECF No. 191); Motion for Entry of Default Judgment at 2, n.2 (ECF No. 192), and the Partial Final Judgment should reflect as such. Accordingly, the Town’s proposed Partial Final Judgment is attached hereto as Exhibit 1 and a document comparing the Railway’s proposed Partial Final Judgment



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(ECF No. 192-1) with the Town's proposed Partial Final Judgment is attached hereto as Exhibit 2.

WHEREFORE, the Town respectfully requests that this Court GRANT IN PART the Railway's Motion for Entry of Final Judgment and enter a Partial Final Judgment in the form attached hereto as Exhibit 1

Dated at Burlington, Vermont this 12th day of July, 2017.

Respectfully Submitted,
TOWN OF SHELBURNE
By and through its counsel,
/s/Claudine C. Safar, Esq.
Claudine C. Safar, Esq.
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CERTIFICATE OF SERVICE

I, Claudine C. Safar, Esq., attorney for the Town of Shelburne, hereby certify that on July 12, 2017 I electronically filed Town of Shelburne's Partial Opposition to Vermont Railway, Inc.'s Motion for Entry of Final Judgment on the Declaratory Order Concerning ICCTA Preemption with the Clerk of the Court using the CM/ECF system which will send notification of such filings to all counsel of record.

Dated this 12th day of July, 2017.

Respectfully submitted,
TOWN OF SHELBURNE
By and through its counsel,

/s/Claudine C. Safar, Esq.
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