EXHIBIT 8

4413(d)(1) prevents the City from prohibiting required agricultural practices in the R-1 Zoning District.

The Court is concerned that this interpretation of § 4413(d)(1)(A) could lead to land use conflicts in various zoning districts, such as dense residential zones or commercial/industrial districts. Under the current state of the law, a municipality, and by extension this Court, has limited regulatory authority to address conflicts between farming and urban development. Once a farming operation falls under jurisdiction of the RAPs, there is no ability to review whether that operation is compatible with surrounding land uses. The Court is unaware of the Agency's efforts to review or consider this land use concern. If a farming operation creates a nuisance, such a determination would have to be made by a civil court and would be subject to the presumptions and requirements of Vermont's Right to Farm law. 12 V.S.A. §§ 5751–5754. Accordingly, we flag this as a potential regulatory gap that has long existed, but which has been highlighted by the facts of this case and the Court's conclusions herein.

Lastly, Neighbors argue that Appellant is not operating a conventional farm and that he only submitted his farm determination application to the Agency to avoid local zoning review of his commercial operations. Neighbors allege that there were errors in Appellant's application, specifically with respect to the size of the lot and because his operations occur in a suburban backyard. The definition of "farming" does not consider the size or location of an operation. See In re Ochs, 2006 VT 122, ¶ 17 ("a farm is still a farm . . . whether it uses two or twenty trucks or tractors, or whether it has seven or 700,000 chickens.") (citation omitted).

To the extent that Neighbors seek to challenge the Agency of Agriculture's farm determination, we lack jurisdiction over such a challenge[6] since it was not raised in any parties' Statement of Questions and because it is outside the scope of these municipal appeals. See In re Conlon CU Permit, No. 2-1-12 Vtec, slip op. at 1 (Vt. Super. Ct. Envtl. Div. Aug. 30, 2012) (explaining that the Statement of Questions provides notice of the issues to be determined in a case and limits the scope of the appeal); In re Torres, 154 Vt. 233, 235

[6] The Court is unaware of any right to appeal an Agency farm determination. Even if there was an appeals process, such a challenge in the context of this municipal appeal would constitute a collateral attack on the final and binding Agency decision.

(1990) (explaining that this Court's powers in a zoning appeal are as broad as the municipal panel below). Neighbors point to no legal or factual grounds which would allow this Court to disturb the Agency's farm determination.[7] Even so, it is undisputed that Appellant is raising livestock, and that Appellant has received a farm determination from the Agency, and therefore his operations fall under the RAPs Rule's definition of farming. 20-010-008 VT. CODE R. § 2.16(b) ("Farming means . . . the raising, feeding, or management of livestock. . ."). Because it is undisputed that Appellant operates a commercial farming operation which is subject to the RAPs, and because such farming activities are exempt from municipal regulation by 24 V.S.A. § 4413(d)(1)(A), we **GRANT** summary judgment in favor of Appellant on Questions 1 and 4 of Appellant's Statement of Questions and **DENY** Neighbors' and the City's motions.

II. Cannabis

Neighbors move for summary judgment on the sole legal issue of whether the City may enforce the LDC's prohibition of cannabis cultivation in the R-1 zoning district. In doing so, Neighbors direct the Court to several provisions in Title 7, Chapter 33 of the Vermont Statutes Annotated. Most notably, 7 V.S.A. § 869 states that a licensed outdoor cultivator shall "not be regulated by a municipal bylaw . . . in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A)." 7 V.S.A. § 869(f)(2).

After reviewing this specific provision, the Court is inclined to grant summary judgment to Appellant on the grounds that his licensed outdoor cannabis operation is exempt from municipal regulation. As explained above with respect to the RAPs, we are convinced that this means a municipality may not constrain licensed outdoor cannabis

[7] In responding to Appellant's Statement of Undisputed Material Facts, Neighbors assert that they dispute whether Appellant's activities constitute farming. However, Neighbors failed to file a paragraph-by-paragraph response with specific citations to materials in the record which demonstrate a dispute, as required by Vermont Rule of Civil Procedure (V.R.C.P.) 56(c)(2). As such this fact is not disputed for the purposes of this motion. V.R.C.P. 56(e)(2). To the extent that a dispute even exits, it is purely legal and is related to the issue of whether § 4413 prohibits municipal regulation of farming activities which are governed by the RAPs Rule. Accordingly, we do not consider there to be a genuine dispute of fact.

Excerpt from *in re: 8 Taft Street*