

STATE OF VERMONT

JUDICIAL NOMINATING BOARD

MEMORANDUM

TO: Members of the Bar of the Vermont Supreme Court

FROM: Eleanor Spottswood, Esq., Chair
Judicial Nominating Board

SUBJECT: **Information Concerning Superior Judge Vacancy in the Environmental Division**

DATE: January 29, 2024

The Judicial Nominating Board is seeking applicants for the Superior Judge vacancy which will be created by the upcoming retirement of Environmental Division Judge Thomas Durkin. The successful candidate will be appointed to hear matters in the Environmental Division and to hear other matters in the Superior Court when so assigned by the Chief Superior Judge pursuant to 4 V.S.A. § 21a(c). See 4 V.S.A. § 1001(b). The appointment will be effective for a term that expires on March 31, 2028. The Environmental Division has statewide jurisdiction and the office of its Clerk is located in Burlington, Vermont. Evidentiary hearings in the Environmental Division are held in the county in which all or a portion of the land that is the subject of the appeal is located or where the violation is alleged to have occurred, unless the parties agree to another location. See 4 V.S.A. §1001(e).

In evaluating candidates, the Judicial Nominating Board uses established criteria and standards for nomination that include, but are not necessarily limited to, such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, communication capability, financial integrity, experience, diligence, social consciousness, and public service. Consideration will be given to the nature and extent of the candidate's legal training, practice, and experience, including experience and expertise in environmental and land use law.

The Supreme Court and the Chief Superior Judge will expect the successful candidate to preside in the environmental division, to preside in the civil, criminal and family divisions of the Superior Court when so assigned pursuant to 4 V.S.A. § 21a, to carry out administrative policy directives and statewide trial court operational policies, and to work cooperatively with court clerks and judicial colleagues to:

- manage the flow of litigation and the pace of courtroom proceedings in order to deal with

the workload of the court efficiently and effectively.

- communicate clearly and regularly with the local bar, representatives of state agencies, community organizations and other court users in order to enhance effective functioning of the court.
- ensure that court proceedings are conducted in an atmosphere that makes litigants and lawyers feel welcome, ensures fairness and the perception of fairness, and treats court users and court staff with courtesy and respect.

Please note 4 V.S.A. §1001(c) which reads as follows:

An Environmental judge shall be an attorney admitted to practice before the Vermont Supreme Court. An Environmental judge shall be nominated, appointed, confirmed, paid, and retained and shall receive all benefits in the manner of a Superior judge.

Please also note 4 V.S.A. §§ 602(b) and 602(c), which read as follows:

Whenever a vacancy occurs in the office of a Supreme Court Justice, a Superior Court Judge, magistrate, or Chair of the Public Utility Commission, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself, the Board shall submit to the Governor the names of as many persons as it deems well qualified to be appointed to the office. [§ 602(b)]

A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law in Vermont for a minimum of ten years, with at least five years immediately preceding his or her application to the Board. The Board may make exceptions to the five-year requirement for absences from practice for reasons including family, military, academic, or medical leave. [§ 602(c)(1)]

Other information relating to the Superior Judge vacancy is as follows:

- (1) 4 V.S.A. § 601(d) and § 602(b) set forth the general qualifications required of candidates for Judges. See also Vt. Const. ch. II, § 35 and the Judicial Nominating Board Rules.
- (2) Superior Judges rotate and are assigned to serve from time to time in the Superior Court in the three geographic divisions of the state. See Administrative Order No. 13 and 4 V.S.A. §§ 21a and 22.
- (3) Effective July 1, 2023, the salary of a Superior Judge is \$182,505. 32 V.S.A. § 1003(c).
- (4) The procedures for selection and appointment of Superior Judges are set forth at Vt. Const. ch. II, §§ 32-35 and 4 V.S.A. §§ 601-603.
- (5) The procedures for retention of Superior Judges are found at Vt. Const. ch. II, §§ 34-35 and 4 V.S.A. §§ 607 and 608.
- (6) Superior Judges are subject to the disciplinary and administrative authority of the

Supreme Court and the Chief Superior Judge. Vt. Const. ch. II, §§ 30, 36, 37; 4 V.S.A. §§ 3, 72, and 605; Rules of the Supreme Court for Disciplinary Control of Judges; and Administrative Orders Nos. 10 and 18.

- (7) Under 4 V.S.A. § 26, the Legislature authorized appointment of half-time judges. Two half-time judges may share the position on a weekly, monthly or semi-annual basis subject to the assignment of the Chief Superior Judge. Each appointment will be made as one full-time judge or as two half-time judges. The salary of a half-time Superior Judge is half the salary of a full-time judge (see #4 above).

Any individual interested in applying for this vacancy may download the [Application for Candidates Applying for Superior Court Judge](#) on the Judiciary website. Your application must be accompanied by your writing sample.

Your completed application, in PDF form, must be filed with me at the following email address **on or before February 23, 2024: eleanor.spottswood@gmail.com**.

Interviews by the Judicial Nominating Board are tentatively planned to be held in person on **March 23, 24, and 25, 2024** in the Burlington area.

If you have any questions, please feel free to contact me at 802-391-0061 or at eleanor.spottswood@gmail.com.