

SUPREME COURT OF PENNSYLVANIA

Scott v. City of Philadelphia, Zoning Board of Adjustment & FT Holdings L.P.

633 Pa. 517 (Pa. 2015) · No. No. 57 EAP 2014 · Decided October 29, 2015

SUMMARY

The Pennsylvania Supreme Court held that FT Holdings, L.P.'s challenge to John Scott's standing to appeal a Philadelphia Zoning Board of Adjustment decision was not waived by its failure to raise the challenge before the Board. The Court remanded for consideration of whether Scott had a substantial, direct, and immediate interest sufficient to establish standing under the Philadelphia Home Rule Act.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Baer; Chief Justice Saylor; Justice Eakin; Justice Todd; Justice Stevens
JURISDICTION	Pennsylvania
DECIDED	October 29, 2015
DOCKET	No. 57 EAP 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	FT Holdings appealed the Commonwealth Court's order reversing and remanding the Philadelphia County Court of Common Pleas order that quashed John Scott's zoning appeal for lack of standing.
STANDARD OF REVIEW	De novo review of questions of law; plenary scope of review.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Pennsylvania.
PARTIES	FT Holdings L.P. v. John Scott

TOPICS

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QUESTIONS PRESENTED

1. Whether FT Holdings waived its challenge to Scott's standing by failing to raise the challenge before the Philadelphia Zoning Board of Adjustment.
2. Whether Scott's participation before the Philadelphia Zoning Board automatically made him an aggrieved person entitled to appeal the Board's decision under the Philadelphia Home Rule Act.
3. Whether the Commonwealth Court improperly applied Municipalities Planning Code precedent to a Philadelphia zoning appeal.

HOLDINGS

1. FT Holdings did not waive its challenge to Scott's standing by failing to raise it before the Philadelphia Zoning Board. Because standing to appeal the Board's decision could not be determined until after the decision was issued, FT timely raised the challenge in the trial court.
2. Participation in a Philadelphia zoning hearing does not automatically confer standing to appeal the Board's decision to the trial court or make the participant necessarily aggrieved.
3. Municipalities Planning Code provisions and cases applying them do not govern Philadelphia zoning appeals, which are controlled by the Philadelphia Home Rule Act and Philadelphia Zoning Code.
4. *South of South Street Neighborhood Ass'n v. Philadelphia Zoning Board of Adjustment* is disapproved to the extent it holds that participation before the Philadelphia Board without objection makes an objector necessarily aggrieved or waives a landowner's standing challenge.

KEY QUOTATIONS

"A party is not necessarily aggrieved simply because he or she appeared or participated before the Board."
(633 Pa. at 535)

"Rather, to appeal from the Board to the trial court, an appellant must demonstrate in the trial court, if challenged, that he is aggrieved pursuant to William Penn and as applied in Spahn, and may not avoid this obligation by arguing that the landowner failed to challenge standing before the Board." (633 Pa. at 535-36)

"Accordingly, the conclusion in South of South Street premised on Thompson that the neighborhood association had standing to appeal to the trial court because it participated before the Board without objection by the landowner, 54 A.3d at 120, is disapproved to the extent it is inconsistent with this decision."
(633 Pa. at 537)

FACTUAL BACKGROUND

FT Holdings sought variances for a four-story, nine-unit residential structure as the third phase of a condominium development in Philadelphia. The Philadelphia Department of Licenses and Inspections denied FT's zoning/use permit application, and the Philadelphia Zoning Board of Adjustment subsequently granted the requested variances. Scott's counsel participated in the Board hearing, but FT did not challenge Scott's standing there. After Scott appealed the Board's decision to the trial court, FT challenged his standing based on his alleged lack of a substantial, direct, and immediate interest in the development.

PROCEDURAL HISTORY

FT obtained variances from the Philadelphia Zoning Board of Adjustment. Scott appealed to the Court of Common Pleas, where FT moved to quash on the ground that Scott was not an aggrieved person with standing under the Philadelphia Home Rule Act. The trial court granted the motion and dismissed the appeal. The Commonwealth Court reversed, holding that FT waived its standing challenge by failing to raise it before the Board. The Supreme Court of Pennsylvania reversed the Commonwealth Court and remanded for consideration of whether Scott was aggrieved and therefore had standing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Commonwealth Court must consider Scott's appeal from the trial court's determination that he was not an aggrieved person and therefore lacked standing under Section 17.1 of the Home Rule Act.

CASES CITED

- Spahn v. Zoning Bd. of Adjustment, 977 A.2d 1132 (Pa. 2009)
- William Penn Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269 (Pa. 2009)
- In re Larsen, 616 A.2d 529 (Pa. 1992)
- Thompson v. Zoning Hearing Bd. of Horsham Twp., 963 A.2d 622 (Pa. Cmwlth. 2009)
- Baker v. Zoning Hearing Bd. of West Goshen Twp., 367 A.2d 819 (Pa. Cmwlth. 1976)
- South of South Street Neighborhood Ass'n v. Philadelphia Zoning Bd. of Adjustment, 54 A.3d 115 (Pa. Cmwlth. 2012)
- South of South St. Neighborhood Ass'n v. Philadelphia Zoning Bd. of Adjustment, 97 A.3d 1200 (Pa. 2014)
- Mesivtah Eitz Chaim of Bobov, Inc. v. Pike Cnty. Bd. of Assessment Appeals, 44 A.3d 3 (Pa. 2012)
- Buckwalter v. Borough of Phoenixville, 985 A.2d 728 (Pa. 2009)
- Scott v. City of Philadelphia, Zoning Bd. of Adjustment, 88 A.3d 1071 (Pa. Cmwlth. 2014)
- Scott v. City of Philadelphia, Zoning Bd. of Adjustment & FT Holdings L.P., 104 A.3d 1287 (Pa. 2014)
- Society Created to Reduce Urban Blight v. Zoning Bd. of Adjustment of Philadelphia, 729 A.2d 117 (Pa. Cmwlth. 1999)