

SUPREME COURT OF RHODE ISLAND

Town of Barrington v. Williams

972 A.2d 603 (R.I. 2009) · No. No. 2007-319-Appeal · Decided June 10, 2009

SUMMARY

The Supreme Court of Rhode Island affirmed a Superior Court judgment resolving the disputed location and boundaries of Bogman Street, an undeveloped platted street in Barrington. The court held that the special master acted within the authority granted under Rule 53 and that the trial justice properly adopted the master's recommended replat. Because Bogman Street had not been accepted as a public highway, formal municipal abandonment procedures were not required.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Goldberg, J.; Williams, C.J.; Flaherty, J.; Suttell, J.; Robinson, J.
JURISDICTION	Rhode Island
DECIDED	June 10, 2009
DOCKET	No. 2007-319-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Some, but not all, defendants appealed from a Superior Court judgment adopting the findings and recommendations of a court-appointed special master and declaring the location and boundaries of the platted but undeveloped Bogman Street.
STANDARD OF REVIEW	A declaratory-relief decision is reviewed for abuse of discretion, legal error, overlooked or misconceived material facts, or an excess of authority. Factual findings of a trial justice sitting without a jury receive great weight and are not disturbed unless clearly wrong; under Superior Court Rule 53(e)(2), the trial justice must accept a special master's findings of fact unless clearly erroneous.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Leo and Anne Kraunelis, Michael and Kathy Flaherty, John and Cheryl Kraunelis v. Town of Barrington, Martin J. Williams, Collette A. Williams, Michael Raynor, Lisa Raynor, Donald S. MacQuattie, Bristol County Water Authority, Michael S. Flaherty, Kathy A. Flaherty, John D. Kraunelis, Cheryl A. Kraunelis

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QUESTIONS PRESENTED

1. Whether the appellants waived objections to the special master's findings and recommendations by failing to make timely and specific objections under Superior Court Rule 53(e)(2).
2. Whether the special master exceeded his authority by recommending alternative replats of Bogman Street and adjustments to surrounding property lines.
3. Whether the Superior Court justice lacked authority to adopt the master's replat because abandonment of portions of Bogman Street required legislative action by town authorities.
4. Whether the Superior Court's adoption of the master's proposed replat and declaration of Bogman Street's location was clearly erroneous or otherwise an abuse of discretion.

HOLDINGS

1. A party that fails to make a timely objection under Superior Court Rule 53(e)(2) to a special master's findings and recommendations may not later raise that objection on appeal.
2. The special master acted within the authority granted by the Superior Court's Rule 53 order when he investigated the disputed property, made findings and conclusions, and recommended alternative replats and revised street widths.
3. Because Bogman Street had never been accepted as a public way, adoption of the replat and reduction of its width did not require formal abandonment proceedings under G.L. 1956 chapter 6 of title 24.
4. The Superior Court did not abuse its discretion, commit legal error, or clearly err by adopting the special master's findings and twenty-four-foot replat to resolve the conflicting surveys, encroachments, and disputed location of Bogman Street.

KEY QUOTATIONS

"Subject to the specifications and limitations contained in the order of reference, 'the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order.'" (610)

"The findings of the master as set forth in the 2000 report were accepted by the parties and are binding upon appellants." (613)

FACTUAL BACKGROUND

Conflicting surveys of a Barrington plat produced differing dimensions for lots and different locations for Bogman Street, a forty-foot street shown on the original plat. The street had never been developed or accepted

by the town as a public street, but the uncertainty about its location led town boards to deny development applications beginning in 1993. A special master found that later surveys relied on a 1940 town plan that altered the dimensions shown on the 1871 plat and recommended new monumentation, a replat, and abandonment of the westerly portions of the paper street to address existing encroachments. The Superior Court adopted a twenty-four-foot right-of-way and adjusted the surrounding lot lines.

PROCEDURAL HISTORY

The Town of Barrington filed a declaratory-judgment action concerning the location of Bogman Street and the town's rights and obligations concerning the street. An earlier declaratory action by the Kraunelises was consolidated with the town's action, and additional counterclaims, cross-claims, and parties followed. The Superior Court appointed a special master under Rule 53, accepted the master's findings and recommendations, adopted a twenty-four-foot replat, and entered a corrected final judgment declaring Bogman Street an unimproved public street not yet accepted by the town. The Rhode Island Supreme Court affirmed and remanded the record to the Superior Court.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The record may be remanded to the Superior Court.

CASES CITED

- Sullivan v. Chafee, 703 A.2d 748, 751 (R.I. 1997)
- Woonsocket Teachers' Guild Local Union 951, AFT v. Woonsocket School Committee, 694 A.2d 727, 729 (R.I. 1997)
- Lombardi v. Goodyear Loan Co., 549 A.2d 1025, 1027 (R.I. 1988)
- Imperial Casualty and Indemnity Co. v. Bellini, 888 A.2d 957, 961 (R.I. 2005)
- Hagenberg v. Avedisian, 879 A.2d 436, 441 (R.I. 2005)
- Providence Lodge No. 3, Fraternal Order of Police v. Providence External Review Authority, 951 A.2d 497, 502 (R.I. 2008)
- Casco Indemnity Co. v. O'Connor, 755 A.2d 779, 782 (R.I. 2000)
- Petition of Statter, 108 R.I. 326, 334-35, 275 A.2d 272, 276 (1971)
- United States v. Merz, 376 U.S. 192, 84 S. Ct. 639, 11 L. Ed. 2d 629 (1964)
- State v. Bido, 941 A.2d 822, 828 (R.I. 2008)
- State v. Brown, 915 A.2d 1279, 1282 (R.I. 2007)
- State v. Ibrahim, 862 A.2d 787, 795 (R.I. 2004)
- Hydro-Manufacturing, Inc. v. Kayser-Roth Corp., 640 A.2d 950, 959 (R.I. 1994)
- Cherubino v. Cherubino, 756 A.2d 174, 178 (R.I. 2000)

- Newport Realty, Inc. v. Lynch, 878 A.2d 1021, 1033 (R.I. 2005)
- Robidoux v. Pelletier, 120 R.I. 425, 433-34, 391 A.2d 1150, 1154-55 (1978)
- Eddy v. Clarke, 38 R.I. 371, 379, 95 A. 851, 854 (1915)
- Bitting v. Gray, 897 A.2d 25, 33 (R.I. 2006)
- 731 Airport Associates, LP v. H & M Realty Associates, LLC, 799 A.2d 279, 282 (R.I. 2002)
- Santurri v. DiPietro, 818 A.2d 657, 661 (R.I. 2003)

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