

SUPREME COURT OF TEXAS

City of Dallas v. TCI West End, Inc.

463 S.W.3d 53 (Tex. 2015) · No. No. 13-0795 · Decided May 8, 2015

SUMMARY

The Supreme Court of Texas held that Texas Local Government Code section 54.012(3) authorizes municipalities to pursue civil actions, including civil penalties, to enforce zoning ordinances regulating land use, without an implied health-and-safety limitation. The court also held that section 54.017 provides alternative grounds for civil penalties based on notice and remanded for consideration of whether TCI could have taken action necessary for compliance after receiving notice.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	May 8, 2015
DOCKET	No. 13-0795
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City of Dallas petitioned for review of a judgment of the Fifth District Court of Appeals reversing a jury-supported trial-court judgment awarding the City \$750,000 in civil penalties for violation of a historic-overlay-district ordinance.
STANDARD OF REVIEW	Questions of statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	Published Texas Supreme Court opinion; precedential.
PARTIES	City of Dallas v. TCI West End, Inc.

TOPICS

- municipal law
- ordinances
- statutory interpretation
- plain meaning rule
- appellate procedure

PRACTICE AREAS

- municipal law
- zoning
- statutory interpretation
- civil penalties
- appellate procedure

QUESTIONS PRESENTED

1. Whether Texas Local Government Code sections 54.012(3) and 54.017 are limited to enforcement of health-and-safety zoning ordinances.
2. Whether section 54.017 requires actual notice of the ordinance before the defendant commits any violation, or alternatively permits civil penalties when the defendant receives notice and thereafter fails to take action necessary for compliance.

HOLDINGS

1. Section 54.012(3) is not limited to health-and-safety zoning ordinances. It authorizes a municipality to pursue a civil action under chapter 54, subchapter B to enforce an ordinance for zoning that provides for the use of land or classifies a parcel according to the municipality's district classification scheme, including the historic-overlay-district ordinance at issue.
2. Section 54.017 uses the disjunctive 'or' to provide two alternative bases for civil penalties: a defendant may violate an ordinance after receiving notice, or may fail to take action necessary for compliance after receiving notice. The court of appeals erred by considering only whether TCI had notice before the initial demolition and by failing to consider whether TCI could have taken action to comply after receiving actual notice.

KEY QUOTATIONS

“Because the court of appeals’ holding is incompatible with the statute’s plain language, we reverse the court’s judgment and remand the case to the court of appeals for further proceedings.” (463 S.W.3d at 53)

“We hold that the court of appeals’ interpretation of section 54.012(3) as incorporating a health-and-safety limitation is contrary to the plain and unambiguous language in the statute and would render meaningless and redundant language in that section expressly circumscribing other categories of ordinances enforceable under subchapter B.” (463 S.W.3d at 56)

“The statute’s use of “or,” a disjunctive, identifies two alternative bases for recovering civil penalties.” (463 S.W.3d at 57)

FACTUAL BACKGROUND

TCI demolished a building located in a historic overlay district in alleged violation of Dallas ordinances requiring the owner to obtain a determination before demolishing or altering a potentially contributing structure. The City sued TCI for civil penalties under Texas Local Government Code sections 54.012 and 54.017. A jury found for the City, and the trial court awarded \$750,000 in civil penalties.

PROCEDURAL HISTORY

After a jury verdict in the City's favor, the trial court rendered judgment awarding \$750,000 in civil penalties. The court of appeals reversed, holding that Texas Local Government Code sections 54.012 and 54.017 applied only to health-and-safety ordinances and alternatively that the City presented no evidence that TCI received actual notice of the ordinance before demolishing the building. The Supreme Court of Texas reversed the relevant portion of the court of appeals' judgment and remanded for further proceedings concerning the alternative statutory basis for civil penalties.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The court of appeals was directed to conduct further proceedings consistent with the opinion, including considering whether TCI could have taken action necessary for compliance with the ordinance after receiving actual notice, and whether the civil-penalty award could be sustained on that alternative statutory ground.

CASES CITED

- City of Rockwall v. Hughes, 246 S.W.3d 621, 625 (Tex. 2008)
- TGS-NOPEC Geophysical Co. v. Combs, 340 S.W.3d 432, 439 (Tex. 2011)
- Crosstex Energy Servs., L.P. v. Pro Plus, Inc., 430 S.W.3d 384, 390 (Tex. 2014)
- Waffle House, Inc. v. Williams, 313 S.W.3d 796, 809 (Tex. 2010)
- Hollingsworth v. City of Dallas, 931 S.W.2d 699, 702-03 (Tex. App.—Dallas 1996, writ denied)
- City of Lorena v. BMTP Holdings, L.P., 409 S.W.3d 634, 642 (Tex. 2013)