

SUPREME COURT OF VERMONT

Donald Gould v. Town of Monkton

2016 VT 84 (2016) · No. 2014-470 · Decided July 29, 2016

SUMMARY

The Vermont Supreme Court affirmed dismissal of Donald Gould’s challenges to Monkton’s Unified Planning Document zoning regulations. The court held that statutory challenges to the enactment of municipal zoning regulations fall within the exclusive jurisdiction of the environmental division, and that adoption of the regulations was a legislative rather than adjudicative act. The court also held that Gould had no constitutionally protected property interest in compliance with the zoning-enactment procedures or in continued application of the prior zoning regulations.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Dooley, J.; Skoglund, J.; Robinson, J.; Eaton, J.
JURISDICTION	Vermont
DECIDED	July 29, 2016
DOCKET	2014-470
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Addison Unit of the Vermont Superior Court, Civil Division's dismissal of a declaratory judgment action and procedural due process claims concerning Monkton's Unified Planning Document zoning regulations.
STANDARD OF REVIEW	The opinion does not expressly state a standard-of-review formulation; it reviews the trial court's jurisdictional and due process dismissal rulings.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	Donald Gould v. Town of Monkton

TOPICS

- zoning
- municipal law
- statutory interpretation
- procedural due process
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Vermont Superior Court's civil division had jurisdiction over a declaratory judgment action challenging the statutory enactment procedures for municipal zoning regulations under 24 V.S.A. chapter 117.
2. Whether a landowner has a constitutionally protected property interest in strict governmental compliance with statutory procedures for adopting zoning regulations.
3. Whether a landowner has a constitutionally protected property interest in continued application of prior zoning regulations based on development plans, reliance, or a permit application filed after new regulations took effect.

HOLDINGS

1. The environmental division has exclusive jurisdiction over claims arising under 24 V.S.A. chapter 117, including claims challenging the procedural enactment of municipal planning laws; the civil division therefore lacked jurisdiction over Gould's statutory challenge.
2. A landowner has no constitutionally protected property interest in strict compliance with statutory procedures used to adopt generally applicable zoning regulations.
3. Gould had no constitutionally protected property interest in continued application of the 1978 zoning regulations because he filed his permit application after the UPD took effect; a permit application vests rights only in the regulations in existence when a full and complete application is filed and cannot retroactively vest rights in prior regulations.

KEY QUOTATIONS

“The civil division has neither exclusive jurisdiction nor concurrent jurisdiction over matters arising under 24 V.S.A. ch. 117.” (¶ 10)

“Because Monkton’s adoption of the UPD was a legislative enactment, landowner cannot assert a constitutionally protected property interest in the Town’s strict compliance with the statute concerning the adoption of zoning ordinances.” (¶ 24)

“We hold that a permit application cannot retroactively vest a right in prior regulations.” (¶ 28)

FACTUAL BACKGROUND

Monkton replaced its 1978 zoning regulations with a Unified Planning Document that increased minimum lot sizes and frontage requirements and made other changes affecting development. The planning commission and selectboard held public hearings, but the selectboard revised the UPD after its final hearing and before the town vote. Voters approved the revised UPD in February 2012. Gould, who had development plans for his property, challenged the enactment process and later applied for a subdivision permit under the 1978 regulations after the UPD had taken effect; the application was denied.

PROCEDURAL HISTORY

Gould filed a declaratory judgment action in the superior court's civil division seeking to invalidate Monkton's Unified Planning Document on the ground that it violated 24 V.S.A. chapter 117. The trial court dismissed the statutory challenge for lack of subject-matter jurisdiction and dismissed the due process claims for failure to allege a protected property interest. After the court questioned standing, Gould applied for a subdivision permit under the prior 1978 regulations; the application was denied, and he did not appeal that denial to the environmental division. The Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Hopkinton Scout Leaders Ass'n v. Guilford, 2004 VT 2, ¶ 8, 176 Vt. 577, 844 A.2d 753 (mem.)
- In re D.K., 2012 VT 23, ¶ 12, 191 Vt. 328, 47 A.3d 347
- Harvey v. Town of Waitsfield, 137 Vt. 80, 83, 401 A.2d 900, 901 (1979)
- Mohr v. Vill. of Manchester, 161 Vt. 562, 641 A.2d 89 (1993)
- LaFlamme v. Essex Junction Sch. Dist., 170 Vt. 475, 480, 750 A.2d 993, 997 (2000)
- Ahern v. Mackey, 2007 VT 27, ¶ 11, 181 Vt. 599, 925 A.2d 1011 (2007) (mem.)
- Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 577 (1972)
- Appeal of Stratton Corp., 157 Vt. 436, 442-45, 600 A.2d 297, 300-02 (1991)
- Bi-Metallic Inv. Co. v. State Bd. of Equalization, 239 U.S. 441, 445 (1915)
- Lake Bomoseen Ass'n v. Vermont Water Resources Board, 2005 VT 79, ¶ 12, 178 Vt. 375, 886 A.2d 355
- Parker v. Town of Milton, 169 Vt. 74, 80, 726 A.2d 477, 482 (1998)
- Gagliardi v. Vill. of Pawling, 18 F.3d 188, 192 (2d Cir. 1994)
- Eason v. Bd. of Cty. Comm'rs of Cty. of Boulder, 70 P.3d 600, 605-06 (Colo. App. 2003)
- Smith v. Winhall Planning Comm'n, 140 Vt. 178, 181-82, 436 A.2d 760, 761 (1981)
- In re Keystone Dev. Corp., 2009 VT 13, ¶ 5, 186 Vt. 523, 524, 973 A.2d 1179 (2009) (mem.)
- In re Times and Seasons, LLC, 2011 VT 76, ¶ 11, 190 Vt. 163, 27 A.3d 323