

DISTRICT OF COLUMBIA COURT OF APPEALS

District of Columbia v. Economides

968 A.2d 1032 (D.C. 2009) · No. 08-CT-538 · Decided March 26, 2009

SUMMARY

The District of Columbia Court of Appeals held that a later-amended building permit does not retroactively cure violations for construction performed outside the scope of the permit in effect at the time. The court concluded that the Attorney General could prosecute the homeowner for building without a permit despite DCRA's subsequent issuance of amended permits. The court reversed the trial court's dismissal of the criminal information and remanded for further proceedings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Kramer, Associate Judge; Fisher, Associate Judge; Thompson, Associate Judge
JURISDICTION	District of Columbia
DECIDED	March 26, 2009
DOCKET	08-CT-538
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The District appealed from an order of the trial court dismissing a criminal information charging Economides with 101 counts of building without a permit.
STANDARD OF REVIEW	De novo review of issues of statutory interpretation.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the District of Columbia Court of Appeals.
PARTIES	District of Columbia v. Frank Economides

TOPICS

- construction law
- statutory interpretation
- administrative law
- municipal law
- criminal procedure

PRACTICE AREAS

- construction law
- statutory interpretation
- criminal law
- administrative law
- municipal law

QUESTIONS PRESENTED

1. Whether an amended or revised building permit issued after construction began can retroactively cure violations of the Construction Codes and bar prosecution for construction performed outside the scope of the permit in effect at the time.

HOLDINGS

1. An amended building permit cannot be applied retroactively to cure pre-amendment violations. An individual may be prosecuted under D.C. Code § 5-1306(a) for performing construction that was outside the scope of the permit in effect when the construction occurred, regardless of whether a later amended permit authorized the work.

KEY QUOTATIONS

“An amended permit cannot be applied retroactively to cure pre-amendment violations that were not in compliance with the original permit.” (968 A.2d at 1037)

“Thus, we hold that regardless of whether an amended permit is obtained, an individual may be prosecuted for Building Without a Permit under D.C.Code § 5-1306(a) if he performs construction that was not within the scope of the permit he had at the time the construction was performed.” (968 A.2d at 1037)

FACTUAL BACKGROUND

Frank Economides obtained a permit to renovate and add to a single-family dwelling, but shortly afterward razed the house and began constructing a new home without first obtaining a permit authorizing new construction. DCRA later issued amended and revised permits describing the work as construction of a new single-family dwelling. The Attorney General charged Economides with 101 counts of building without a permit for conduct occurring before the amended permit was issued.

PROCEDURAL HISTORY

The Attorney General filed a criminal information alleging that Economides performed construction between March 24, 2003, and July 2, 2003, without a permit authorizing the work. After Economides obtained amended and revised permits, the trial court dismissed the information on the ground that the later permit amendments retroactively cured the earlier violations. The District of Columbia Court of Appeals reversed and remanded for reinstatement of the information and further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's dismissal of the criminal information, reinstate the information, and conduct further proceedings as necessary.

CASES CITED

- District of Columbia v. Morrissey, 668 A.2d 792, 796 (D.C. 1995)
- United States v. White, 689 A.2d 535, 538 (D.C. 1997)
- Bordenkircher v. Hayes, 434 U.S. 357, 364 (1978)
- Price v. United States, 531 A.2d 984, 987 (D.C. 1987)
- Community for Creative Non-Violence v. Pierce, 786 F.2d 1199, 1201 (D.C. Cir. 1986)
- United States v. Cox, 342 F.2d 167, 171 (5th Cir. 1965) (en banc)
- National Organization for Women v. Mutual of Omaha Insurance Co., 531 A.2d 274, 276 (D.C. 1987)
- Economides v. District of Columbia Board of Zoning Adjustment, 954 A.2d 427 (D.C. 2008)

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