

SUPREME COURT OF VERMONT

Sunset Cliff Homeowners Ass'n v. Water Resources Board

184 Vt. 584 (2008) · Decided June 10, 2008

SUMMARY

The Vermont Supreme Court held that a superior court lacked jurisdiction to review, through a declaratory-judgment action under 3 V.S.A. § 807, the Water Resources Board’s fact-bound decision declining to reclassify wetlands. Section 807 provides a procedural avenue to challenge the applicability or validity of rules, but does not authorize de novo or appellate review of an agency’s application of wetland rules to a particular parcel. The court vacated the superior court’s order allowing on-the-record review and remanded with instructions to dismiss the action.

CASE DETAILS

COURT	Supreme Court of Vermont
JURISDICTION	Vermont
DECIDED	June 10, 2008
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal and cross-appeal from a stipulated judgment in a declaratory-judgment action concerning the Water Resources Board's denial of a petition to reclassify wetlands. The superior court concluded that the Board's decision was reviewable on the record under 3 V.S.A. § 807; the Vermont Supreme Court vacated that determination and remanded for dismissal for lack of jurisdiction.
STANDARD OF REVIEW	The court reviewed de novo whether the superior court had jurisdiction to entertain the declaratory-judgment action under 3 V.S.A. § 807.
PRECEDENTIAL VALUE	precedential
PARTIES	Sunset Cliff Homeowners Association, Strathmore Homeowners Association v. Water Resources Board

TOPICS

- judicial review of agency action
- declaratory judgment
- administrative law
- wetlands
- appellate jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 3 V.S.A. § 807 authorizes a superior court to conduct de novo or on-the-record review of the Water Resources Board's fact-bound decision denying a petition to reclassify particular wetlands.
2. Whether the declaratory-judgment action should have been dismissed for lack of jurisdiction because it sought appellate review and reversal of the Board's application of the wetland rules to a particular parcel rather than a declaration concerning the rules' validity or applicability.

HOLDINGS

1. Section 807 does not empower the superior court to review the Water Resources Board's application of the wetland rules to particular parcels of land in the manner of an appellate tribunal. A declaratory-judgment action may challenge the applicability or validity of rules, but it may not be used to obtain de novo or on-the-record reconsideration and reversal of the Board's fact-bound, policy-driven reclassification decision.

KEY QUOTATIONS

“The various statutes authorizing declaratory judgments allow parties to petition courts for declaratory relief as to matters within the jurisdiction of that court; the acts do not enlarge the jurisdiction of the courts.” (184 Vt. at 587)

“Rather, we simply hold that § 807 does not empower the courts to review the WRB’s application of the wetland rules to particular parcels of land, in the manner of an appellate tribunal.” (184 Vt. at 588)

“The action should have been dismissed for lack of jurisdiction.” (184 Vt. at 589)

FACTUAL BACKGROUND

Sunset Cliff and Strathmore petitioned the Water Resources Board to reclassify approximately forty acres of Class III wetlands in Burlington as Class II wetlands. The Board temporarily designated the wetland as Class II while the petition was pending, later withdrew that temporary designation, held a public hearing, and ultimately denied reclassification after finding that the wetland did not satisfy the applicable functional criteria. Because it denied reclassification, the Board did not decide the requested buffer zones or delineate the wetland's boundaries.

PROCEDURAL HISTORY

Sunset Cliff petitioned the Water Resources Board to reclassify approximately forty acres of Class III wetlands as Class II. After the Board denied the petition, Sunset Cliff initially filed an action in Chittenden Superior Court under V.R.C.P. 74 and general jurisdiction; that action was dismissed, and Sunset Cliff did not appeal. Sunset Cliff then filed a declaratory-judgment action in Washington Superior Court under 3 V.S.A. § 807. The Washington court denied the State's motion to dismiss and concluded that the Board's denial constituted rulemaking reviewable on the record. The parties entered a stipulated judgment affirming the Board's decision on the record, preserving the question whether such review was available.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the Washington Superior Court's order concluding that on-the-record review was available and remand with instructions to dismiss the action for lack of jurisdiction.

CASES CITED

- Lake Bomoseen Ass'n v. Vermont Water Resources Board, 2005 VT 79, 178 Vt. 375, 886 A.2d 355
- United States v. Doherty, 786 F.2d 491, 498 (2d Cir. 1986)
- In re D.A. Assocs., 150 Vt. 18, 19, 547 A.2d 1325, 1326 (1988)
- Vt. State Employees' Ass'n v. Vt. Criminal Justice Training Council, 167 Vt. 191, 194, 704 A.2d 769, 771 (1997)
- Williams v. State, 156 Vt. 42, 57, 589 A.2d 840, 849 (1990)
- Conservation Law Found. v. Burke, 162 Vt. 115, 126, 645 A.2d 495, 502 (1993)
- Mayor & City Council of Baltimore v. Seabolt, 123 A.2d 207, 212 (Md. 1956)
- Driscoll v. Austintown Assocs., 328 N.E.2d 395, 401 (Ohio 1975)
- St. John's Roman Catholic Church Corp. v. Town of Darien, 184 A.2d 42, 46 (Conn. 1962)
- Bi-Metallic Inv. Co. v. State Bd. of Equalization, 239 U.S. 441, 445 (1915)