

WYOMING SUPREME COURT

City of Cheyenne v. Board of Commissioners

290 P.3d 1057 (Wyo. 2012) · Decided December 13, 2012

SUMMARY

The Wyoming Supreme Court affirmed summary judgment for Laramie County in a dispute over whether the City of Cheyenne had to jointly approve a partial vacation of a subdivision plat located within one mile of the city limits. The court held that Wyoming statutes require joint city and county approval for original subdivision plats in that area, but do not require joint approval for a subsequent partial vacation when the property is wholly within the county. The court declined to consider the City's additional argument concerning approval by all subdivision owners because it was raised for the first time on appeal and contradicted the City's position below.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Wyoming Supreme Court                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Burke, Justice; Burke; Golden; Hill; Kite; Voigt                                                                                                                                                                                                                                   |
| JURISDICTION          | Wyoming                                                                                                                                                                                                                                                                            |
| DECIDED               | December 13, 2012                                                                                                                                                                                                                                                                  |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | The City appealed from a district court order granting summary judgment to the County in the City's declaratory-judgment action concerning whether a partial subdivision-plat vacation required joint City and County approval.                                                    |
| STANDARD OF REVIEW    | De novo review applies to summary judgment involving purely legal determinations, and statutory interpretation is also reviewed de novo. Summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. |
| PRECEDENTIAL VALUE    | Published Wyoming Supreme Court opinion; precedential.                                                                                                                                                                                                                             |
| PARTIES               | City of Cheyenne v. Board of Commissioners                                                                                                                                                                                                                                         |

TOPICS

- real estate
- statutory interpretation
- municipal law
- summary judgment
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Wyoming statutes require joint City and County approval before a partial vacation of a subdivision plat located in the County but within one mile of a city boundary may be recorded.
2. Whether the City could challenge the validity of the partial vacation based on the absence of approval by all current subdivision owners when that argument was not raised below and contradicted the City's position in the district court.

## HOLDINGS

1. Joint City and County approval is not required for the partial vacation of a subdivision plat when the affected property is wholly within the County, even if it is within one mile of the City limits.
2. The court would not consider the City's owner-approval argument because it was raised for the first time on appeal and directly contradicted the City's position in the district court.

## KEY QUOTATIONS

*"We therefore conclude that the joint approval requirements of Section 108 apply to the approval of original plats for new subdivisions, not to subsequent plats filed in order to accomplish a partial vacation."* (¶ 12; 290 P.3d at 1061)

*"We therefore conclude that joint City and County approval is not required for the partial vacation of a subdivision plat when the subdivision is within the County but within one mile of the City limits."* (¶ 16; 290 P.3d at 1062)

*"When a statute is sufficiently clear and unambiguous, we give effect to the plain and ordinary meaning of the words."* (¶ 18; 290 P.3d at 1062)

## FACTUAL BACKGROUND

Roundup Heights is a subdivision in Laramie County located within one mile of the City of Cheyenne and originally platted in 1955. In 2010, certain lot owners sought County approval for a partial vacation eliminating some lot boundaries and rights-of-way. The City asserted that both the City and County had to approve the partial vacation, but the County approved it without City approval; the parties stipulated to the material facts.

## PROCEDURAL HISTORY

Owners of lots in the Roundup Heights subdivision obtained County approval for a partial vacation of the subdivision plat. The City sued for a declaration that joint approval was required because the subdivision was within one mile of the City. The district court granted summary judgment to the County, and the Wyoming Supreme Court affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- Glenn v. Union Pacific R.R. Co., 2008 WY 16, ¶ 6, 176 P.3d 640, 642 (Wyo. 2008)
- Jacobs Ranch Coal Co. v. Thunder Basin Coal Co., LLC, 2008 WY 101, ¶ 8, 191 P.3d 125, 128 (Wyo. 2008)
- Metz Beverage Co. v. Wyoming Beverages, Inc., 2002 WY 21, ¶ 9, 39 P.3d 1051, 1055 (Wyo. 2002)
- Farmers Ins. Exchange v. Dahlheimer, 3 P.3d 820, 821 (Wyo. 2000)
- Qwest Corp. v. State, 2006 WY 35, ¶ 8, 130 P.3d 507, 511 (Wyo. 2006)
- BP America Prod. Co. v. Department of Revenue, 2006 WY 27, ¶ 20, 130 P.3d 438, 464 (Wyo. 2006)
- State Dept. of Revenue v. Powder River Coal Co., 2004 WY 54, ¶ 5, 90 P.3d 1158, 1160 (Wyo. 2004)
- Kuntz v. Kinne, 395 P.2d 286, 288 (Wyo. 1964)
- Hede v. Gilstrap, 2005 WY 24, ¶ 6, 107 P.3d 158, 168 (Wyo. 2005)
- Carnahan v. Lewis, 2012 WY 45, ¶¶ 36, 38, 273 P.3d 1065, 1076-77 (Wyo. 2012)
- Counts v. State, 2008 WY 156, ¶ 18, 197 P.3d 1280, 1285 (Wyo. 2008)
- Patel v. CWC Capital Asset Mgmt., LLC, 2010 WY 147, ¶ 7, 242 P.3d 1015, 1018 (Wyo. 2010)
- Ward v. Board of Commr's of Johnson County, 36 Wyo. 460, 464, 256 P. 1039, 1040 (Wyo. 1927)
- Mountain Cement Co. v. Laramie Water & Sewer Dist., 2011 WY 81, ¶ 13, 255 P.3d 881, 885 (Wyo. 2011)
- Wyoming Bd. of Land Comm'rs v. Antelope Coal Co., 2008 WY 60, ¶ 16, 185 P.3d 666, 670 (Wyo. 2008)