

SUPREME COURT OF WISCONSIN

Village of Hobart v. Brown County, 281 Wis. 2d 628

698 N.W.2d 83 (2005) · No. 2003AP1907 · Decided June 15, 2005

SUMMARY

The Supreme Court of Wisconsin held that summary judgment was improperly granted to Brown County in a dispute over construction and operation of a solid-waste transfer station in the Village of Hobart. The court concluded that genuine issues of material fact remained regarding zoning classifications, ordinance violations, municipal representations, and reliance. It remanded for determination of any ordinance violation and, if appropriate, consideration of equitable factors governing injunctive relief, including equitable defenses.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	N. Patrick Crooks, J.
JURISDICTION	Wisconsin
DECIDED	June 15, 2005
DOCKET	2003AP1907
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Village of Hobart sought a permanent injunction to prevent Brown County and the Brown County Solid Waste Management Board from constructing and operating a solid-waste transfer station. The circuit court granted the County summary judgment and dismissed the complaint. The court of appeals reversed, and the Wisconsin Supreme Court affirmed that reversal and remanded.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, using the same methodology as the circuit court and court of appeals. Summary judgment is proper only when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential.
PARTIES	Village of Hobart v. Brown County, Brown County Solid Waste Management Board

TOPICS

zoning

injunctions

summary judgment

equitable relief

municipal law

PRACTICE AREAS

municipal law

zoning

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civil procedure

QUESTIONS PRESENTED

1. Whether summary judgment for Brown County was proper when the record contained genuine disputes of material fact and reasonable alternative inferences concerning the applicable zoning, the Village's representations, and the County's reliance.
2. Whether a municipality may be estopped from asserting a violation of its zoning ordinance.
3. If a zoning or related ordinance violation occurred, whether the circuit court must weigh equitable considerations and equitable defenses before granting or denying the Village's requested injunction.

HOLDINGS

1. Summary judgment for the County was improper because genuine issues of material fact and reasonable alternative inferences existed concerning the applicable zoning, ordinance compliance, the Village's representations, and the County's reliance.
2. A municipality cannot be estopped from asserting a violation of its zoning ordinance in court or from seeking enforcement of its ordinances based solely on erroneous acts or representations of municipal officials.
3. If the circuit court finds an ordinance violation and the Village seeks enforcement through an injunction, the circuit court must exercise its equitable discretion and weigh the totality of the circumstances, including applicable equitable defenses, before deciding whether and in what form to grant relief.

KEY QUOTATIONS

“Injunctive relief is not ordered as a matter of course, but instead rests on the sound discretion of the court, to be used in accordance with well-settled equitable principles and in light of all the facts and circumstances of the case.” (¶ 32)

“Ultimately, this court concluded that upon the determination of an ordinance violation, the proper procedure for a circuit court is to grant the injunction, except when it is presented with compelling equitable reasons to deny it.” (¶ 34)

“There are still genuine issues of material fact, as well as reasonable alternative inferences to be drawn from undisputed material facts, sufficient to warrant a trial.” (¶ 38)

FACTUAL BACKGROUND

Brown County operated solid-waste landfills and proposed constructing a transfer station at its West Landfill in the Village of Hobart after the County's East Landfill reached capacity. Village officials initially represented that the transfer station was permitted under the existing zoning and approved the project, but the Village Board later rejected the permit and rescinded its memorandum of understanding after residents objected. The County relied

on the Village's prior actions and advice from its corporation counsel, began construction without Village permits, and incurred substantial construction expenses. The Village then sought to enjoin construction and operation based on alleged violations of its zoning and solid-waste ordinances.

PROCEDURAL HISTORY

The Village filed suit after the County began construction without the local permits the Village demanded. Both parties moved for summary judgment. The Brown County Circuit Court granted the County's motion, concluding that the Village was estopped from asserting a zoning violation and that the County did not require local approval. The court of appeals reversed and remanded. The Supreme Court affirmed, holding that factual disputes required a trial and directing the circuit court to determine whether the transfer station violated Village ordinances and, if so, whether equitable considerations justified granting or denying injunctive relief.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The circuit court must conduct further proceedings to determine whether construction and operation of the transfer station violated a Village zoning or related ordinance. If it finds a violation and the Village continues seeking enforcement through injunctive relief, the court must take evidence and weigh the equitable considerations and defenses identified in *Forest County v. Goode*, including the public interest, extent of the violation, good faith, laches, estoppel, unclean hands, hardship, and any governmental contribution to the violation.

CASES CITED

- *Forest County v. Goode*, 219 Wis. 2d 654, 579 N.W.2d 715 (1998)
- *Atkins v. Swimwest Family Fitness Ctr.*, 2005 WI 4, ¶ 11, 277 Wis. 2d 303, 691 N.W.2d 334
- *Trinity Evangelical v. Tower Ins. Co.*, 2003 WI 46, ¶ 32, 261 Wis. 2d 333, 661 N.W.2d 789
- *Cent. Corp. v. Research Prods. Corp.*, 2004 WI 76, ¶ 18, 272 Wis. 2d 561, 681 N.W.2d 178
- *City of Milwaukee v. Leavitt*, 31 Wis. 2d 72, 142 N.W.2d 169 (1966)
- *Willow Creek Ranch v. Town of Shelby*, 2000 WI 56, 235 Wis. 2d 409, 611 N.W.2d 693
- *Russell Dairy Stores v. Chippewa Falls*, 272 Wis. 138, 74 N.W.2d 759 (1956)
- *Lake Bluff Hous. v. City of S. Milwaukee*, 197 Wis. 2d 157, 177, 540 N.W.2d 189 (1995)
- *DOR v. Moebius Printing Co.*, 89 Wis. 2d 610, 279 N.W.2d 213 (1979)
- *Milas v. Labor Ass'n of Wisconsin, Inc.*, 214 Wis. 2d 1, 571 N.W.2d 656 (1997)
- *Schuster v. Comm'r of Internal Revenue*, 312 F.2d 311 (9th Cir. 1962)
- *Lake Bluff Hous. v. City of S. Milwaukee*, 2001 WI App 150, 246 Wis. 2d 785, 632 N.W.2d 485
- *McKinnon v. Benedict*, 38 Wis. 2d 607, 157 N.W.2d 665 (1968)
- *Town of Delafield v. Winkelman*, 2004 WI 17, 269 Wis. 2d 109, 675 N.W.2d 470

- Beres v. New Berlin, 34 Wis. 2d 229, 148 N.W.2d 653 (1967)
- Libby, McNeill & Libby v. Dept. of Taxation, 260 Wis. 551, 51 N.W.2d 796 (1952)
- State v. Chippewa Cable Co., 21 Wis. 2d 598, 124 N.W.2d 616 (1963)
- Park Bldg. Corp. v. Indus. Comm'n, 9 Wis. 2d 78, 100 N.W.2d 571 (1960)
- Town of Richmond v. Murdock, 70 Wis. 2d 642, 235 N.W.2d 497 (1975)
- McKenna v. State Highway Comm'n, 28 Wis. 2d 179, 135 N.W.2d 827 (1965)
- Milwaukee v. Milwaukee Amusement, Inc., 22 Wis. 2d 240, 125 N.W.2d 625 (1964)

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