

SUPREME COURT OF WASHINGTON

Wilkinson v. Chiwawa Communities Ass'n, 180 Wn. 2d 178

322 P.3d 793 (2014) · No. 86870-1 · Decided April 17, 2014

SUMMARY

The Washington Supreme Court considered whether short-term vacation rentals violated covenants restricting property to single-family residential use and prohibiting commercial use. The court held that such rentals were residential uses and did not violate the preexisting covenants, and that the homeowners association lacked authority to amend the covenants by majority vote to prohibit rentals of less than 30 days. The court also upheld the trial court's evidentiary rulings and affirmed the judgment.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Stephens, J.; Madsen, C.J.; Gonzalez, J.; Owens, J.; Wiggins, J.; Gordon McCloud, J.
JURISDICTION	Washington
DECIDED	April 17, 2014
DOCKET	86870-1
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the superior court's grant of summary judgment invalidating a homeowners association amendment that prohibited rentals of homes for less than 30 days, and from related evidentiary rulings.
STANDARD OF REVIEW	De novo review of cross-motions for summary judgment and related evidentiary rulings.
PRECEDENTIAL VALUE	Published precedential opinion of the Washington Supreme Court
PARTIES	Chiwawa Communities Association v. Ross Wilkinson, Cindy Wilkinson, Monte Karnes, Kimberly Karnes, David Bethel, Jeanie Bethel, Darrell McLean, Jim Paulus, Kathy Paulus, Justin Hargis, Tabitha Hargis, Joe Hargis, Linda Hargis, Daniel MacInDoe, Isidra MacInDoe, David Spicer, Martha Spicer, Ted Trepanier, Ruby Akins-Trepanier

TOPICS

covenants and restrictions

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether short-term vacation rentals violate the pre-2011 covenants' restrictions on commercial use.
2. Whether short-term vacation rentals violate the covenants' restriction of lots to single-family residential use.
3. Whether the Association's majority could validly amend the covenants to prohibit rentals of less than 30 days.
4. Whether the trial court properly excluded comments from a 2007 homeowner survey and portions of declarations offered by the Association.

HOLDINGS

1. The 1988/1992 covenants permitted rentals without a durational limitation because they expressly contemplated rentals through their regulation of rental signs and did not impose a duration restriction.
2. Short-term vacation rentals do not, without more, violate the covenants' prohibition on commercial use.
3. The single-family residential-use restriction limits the type and appearance of structures that may be built, not the identity or relationship of persons who may reside in them; therefore, short-term vacation rentals do not violate that restriction.
4. The Association exceeded its authority by adopting the 2011 amendment through a simple majority vote because the amendment imposed a new restriction unrelated to the existing covenants and inconsistent with the general plan of development.
5. The trial court properly excluded the 2007 survey comments as inadmissible hearsay.
6. The trial court properly struck portions of the declarations because they lacked personal knowledge, were not rationally based on the witnesses' perceptions, or were misleading.

KEY QUOTATIONS

"We merely hold that the Chiwawa River Pines community did not do so through covenants allowing rentals while prohibiting commercial uses and limiting homes to single-family structures." (at 13)

"The covenants in effect before the 2011 amendment allowed Chiwawa homeowners to rent their homes without limitations on duration." (at 21)

"Because a durational restriction on rentals would be inconsistent with the 1988/1992 covenants, it cannot be adopted by a simple majority vote of Chiwawa homeowners." (at 21)

FACTUAL BACKGROUND

Chiwawa River Pines is a planned residential community governed by recorded covenants that limited lots to single-family residential use, prohibited industrial or commercial uses, and regulated rental signs. Residents had rented their homes to unrelated persons on a short-term, for-profit basis for decades, although concerns increased as the number and frequency of rentals grew. After an unsuccessful 2008 amendment, the Association adopted a 2011 amendment prohibiting rentals for less than 30 continuous days.

PROCEDURAL HISTORY

The homeowners sued in Chelan County Superior Court to invalidate the Association's 2011 amendment restricting rentals to periods of at least 30 days. The superior court granted the homeowners summary judgment, ruled the amendment invalid and unenforceable, and granted in part their motions to strike survey comments and portions of resident declarations. The Association sought direct review, which the Washington Supreme Court accepted, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Davis v. Baugh Indus. Contractors, Inc., 159 Wn.2d 413, 416, 150 P.3d 545 (2007)
- Folsom v. Burger King, 135 Wn.2d 658, 663, 958 P.2d 301 (1998)
- Dowler v. Clover Park Sch. Dist. No. 400, 172 Wn.2d 471, 484, 258 P.3d 676 (2011)
- Wimberly v. Caravello, 136 Wn. App. 327, 336, 149 P.3d 402 (2006)
- Riss v. Angel, 131 Wn.2d 612, 621-24, 934 P.2d 669 (1997)
- Mains Farm Homeowners Ass'n v. Worthington, 121 Wn.2d 810, 815-16, 821, 827, 854 P.2d 1072 (1993)
- Green v. Normandy Park Riviera Section Cmty. Club, Inc., 137 Wn. App. 665, 683, 151 P.3d 1038 (2007)
- Lakes at Mercer Island Homeowners Ass'n v. Witrak, 61 Wn. App. 177, 181, 810 P.2d 27 (1991)
- Hollis v. Garwall, Inc., 137 Wn.2d 683, 694-97, 974 P.2d 836 (1999)
- Ross v. Bennett, 148 Wn. App. 40, 49-52, 203 P.3d 383 (2008)
- Owen v. Burlington N. Santa Fe R.R., 153 Wn.2d 780, 788, 108 P.3d 1220 (2005)
- Mountain Park Homeowners Ass'n v. Tydings, 125 Wn.2d 337, 344, 883 P.2d 1383 (1994)
- Burton v. Douglas County, 65 Wn.2d 619, 622, 399 P.2d 68 (1965)
- Bauman v. Turpen, 139 Wn. App. 78, 90, 160 P.3d 1050 (2007)
- Day v. Santorsola, 118 Wn. App. 746, 750, 758, 76 P.3d 1190 (2003)
- Metzner v. Wojdyla, 125 Wn.2d 445, 447, 451, 866 P.2d 154 (1994)
- Viking Props., Inc. v. Holm, 155 Wn.2d 112, 122, 118 P.3d 322 (2005)
- Shafer v. Bd. of Trs. of Sandy Hook Yacht Club Estates, Inc., 76 Wn. App. 267, 273-74, 883 P.2d 1387 (1994)
- Ebel v. Fairwood Park II Homeowners' Ass'n, 136 Wn. App. 787, 793, 150 P.3d 1163 (2007)
- Meresse v. Stelma, 100 Wn. App. 857, 864-67, 999 P.2d 1267 (2000)

- Lakeland Prop. Owners Ass'n v. Larson, 121 Ill. App. 3d 805, 459 N.E.2d 1164, 1167, 1169, 77 Ill. Dec. 68 (1984)
- Boyles v. Hausmann, 246 Neb. 181, 517 N.W.2d 610, 617 (1994)
- Smith v. Sturm, Ruger & Co., 39 Wn. App. 740, 749, 695 P.2d 600 (1985)
- Simon v. Riblet Tramway Co., 8 Wn. App. 289, 294, 505 P.2d 1291 (1973)
- Nordstrom v. White Metal Rolling & Stamping Corp., 75 Wn.2d 629, 632-34, 453 P.2d 619 (1969)

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