

SUPREME COURT OF ALASKA

Dykstra v. Municipality of Anchorage

83 P.3d 7 (Alaska 2004) · Decided January 2, 2004

SUMMARY

The Alaska Supreme Court considered whether storing a large collection of cars on property zoned R-3 constituted a permissible accessory use or a prohibited storage yard. The court rejected the claim that Anchorage’s accessory-use ordinances were unconstitutionally vague and held that substantial evidence supported the finding of a zoning violation. However, because the zoning board failed to adopt sufficiently specific findings explaining how to correct the violation, the court remanded for entry of specific findings.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Bryner, Justice; Bryner; Carpeneti; Eastaugh; Fabe; Matthews
JURISDICTION	Alaska
DECIDED	January 2, 2004
DISPOSITION	remanded
PROCEDURAL POSTURE	Appeal from the superior court's affirmance of a zoning board of examiners and appeals decision upholding a municipal zoning enforcement order.
STANDARD OF REVIEW	The court reviewed the zoning board's decision and the legal issue of vagueness; it considered whether substantial evidence supported the board's determination and whether the ordinances provided constitutionally adequate notice.
PRECEDENTIAL VALUE	Published precedential opinion of the Alaska Supreme Court
PARTIES	David Dykstra v. Municipality of Anchorage

TOPICS

- zoning
- municipal law
- administrative law
- procedural due process
- void for vagueness

PRACTICE AREAS

- Zoning
- Municipal law
- Administrative law
- Constitutional law

QUESTIONS PRESENTED

1. Whether storing and collecting numerous cars on R-3 residential property constituted a permissible accessory use under Anchorage's zoning code.
2. Whether the Anchorage zoning provisions governing accessory uses were unconstitutionally vague in violation of due process.
3. Whether the zoning board could affirm the enforcement order without adopting specific findings and conclusions explaining the violation and the corrective steps required.

HOLDINGS

1. The Anchorage zoning ordinances were not unconstitutionally vague because, when read with the definitions and purposes in the zoning code and interpreted in light of relevant law, they provided a reasonably clear standard for determining whether a use was customarily subordinate or incidental to the principal residential use.
2. Dykstra's storage of twenty or more cars exceeded the scope of a permissible accessory use and constituted a prohibited storage-yard use in the R-3 district.
3. The board could not adequately enforce the order without adopting specific findings and conclusions that gave Dykstra reasonable notice of the steps necessary to correct the violation.

KEY QUOTATIONS

“The question is whether the statute’s meaning is unresolvably confused or ambiguous after it has been subjected to legal analysis.” (at 9)

“These cases illustrate that the Anchorage zoning code’s flexible approach to accessory use is neither uncommon nor impermissibly vague; they show that a pliant, objective test of this kind- — one that asks whether a reasonable person would consider the particular level of use in question as customary and relatively minor — can be readily understood and applied.” (at 10-11)

“With no prior zoning decisions delineating community standards for car storage as an accessory use in R-3 districts, the board’s failure to approve findings leaves Dykstra with inadequate notice to form a “clear and precise understanding” of the action the municipality expects him to take to avoid sanctions for non-compliance with the enforcement order.” (at 12)

FACTUAL BACKGROUND

David Dykstra owned a four-plex in an Anchorage neighborhood zoned R-3 for multiple-family residential use. He collected cars as a hobby and regularly kept twenty or more cars on his property and in the adjoining right of way. After neighborhood complaints, the Municipality determined that Dykstra was using the property as a storage yard, issued an enforcement order, and required him to submit an abatement plan.

PROCEDURAL HISTORY

The Municipality of Anchorage's Building Safety Division determined that Dykstra's storage of numerous cars on and around his four-plex violated the zoning code. The zoning board denied Dykstra's petition for review of

the enforcement order, and the superior court affirmed. The Alaska Supreme Court rejected Dykstra's vagueness challenge and upheld the conclusion that his car collection exceeded a permissible accessory use, but remanded because the board had not adopted the specific findings and conclusions required by the zoning code.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the Anchorage zoning board of examiners and appeals for entry of specific findings and conclusions conforming with the opinion, including findings that provide reasonable notice of the steps Dykstra must take to correct the violation and avoid sanctions.

CASES CITED

- De Nardo v. State, 819 P.2d 903, 908 (Alaska App. 1991)
- Holton v. State, 602 P.2d 1228, 1236 (Alaska 1979)
- Stock v. State, 526 P.2d 3, 8 (Alaska 1974)
- Perron v. City of Concord, 102 N.H. 32, 150 A.2d 403, 406 (N.H. 1959)
- Lawrence v. Zoning Bd. of Appeals, 158 Conn. 509, 264 A.2d 552, 554 (1970)
- Henry v. Bd. of Appeals, 418 Mass. 841, 641 N.E.2d 1334, 1336 (1994)
- Becker v. Town of Hampton Falls, 117 N.H. 437, 374 A.2d 653, 653 (1977)
- Colts Run Civic Ass'n v. Colts Neck Township Zoning Board of Adjustment, 315 N.J. Super. 240, 717 A.2d 456, 461-62 (1998)
- Borough of Chatham v. Donaldson, 69 N.J. Super. 277, 174 A.2d 213, 280, 282 (1961)
- Presnell v. Leslie, 3 N.Y.2d 384, 387-88, 392, 144 N.E.2d 381 (1957)
- Grandview Baptist Church v. City of Davenport, 301 N.W.2d 704, 709 (Iowa 1981)
- Kowalski v. Lamar, 25 Md. App. 493, 334 A.2d 536 (1975)