

SUPREME COURT OF MONTANA

Fielder v. Board of County Commissioners

337 Mont. 256, 2007 MT 118 (2007) · No. DA 06-0285 · Decided May 22, 2007

SUMMARY

The Montana Supreme Court held that the appellants' challenge to conditional preliminary plat approval was timely because the complaint was delivered to the district court clerk within the statutory appeal period, even though it was stamped filed later. The court nevertheless affirmed summary judgment for the county and developer, concluding that the cash-in-lieu park donation, legal access to the subdivision, and completion of water and sanitation review before final plat approval were permissible.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Brian Morris; Chief Justice Karla M. Gray; Justice W. William Leaphart; Justice John Warner; Justice Patricia Cotter
JURISDICTION	Montana
DECIDED	May 22, 2007
DOCKET	DA 06-0285
DISPOSITION	other
PROCEDURAL POSTURE	Residents appealed a district court summary judgment upholding the county commissioners' conditional approval of a preliminary subdivision plat.
STANDARD OF REVIEW	The court reviewed the grant of summary judgment de novo under Montana Rule of Civil Procedure 56, determining whether the moving party established the absence of a genuine issue of material fact and entitlement to judgment as a matter of law. Conclusions of law were reviewed for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Jennifer Fielder, Paul Fielder, Robert Mann, Bethanne Mann, Scott Wiestling, Jeanne Wiestling, James Gordon, Darlene Gordon, Loren McCloud, Loris McCloud, Honani Polequaptewa, Jean Polequaptewa v. Board of County Commissioners, Sanders County, Montana, Donald Oliver

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QUESTIONS PRESENTED

1. Whether the Fielders' appeal of the county commissioners' conditional preliminary plat approval was timely when the complaint was delivered to the district court clerk within the statutory thirty-day period but stamped filed four days later.
2. Whether the commissioners acted arbitrarily and capriciously by accepting a cash-in-lieu payment to satisfy the subdivision park-dedication requirement.
3. Whether the Waterfront West subdivision had legal access through Waterfront Circle and Coveview Lane under the recorded declaration.
4. Whether Department of Environmental Quality review and approval of water and sanitation issues had to occur before preliminary plat approval rather than before final plat approval.

HOLDINGS

1. An appeal is timely when the complaint is delivered into the custody or possession of the district court clerk within the statutory appeal period; the filing stamp date is not controlling when the clerk actually received the document earlier.
2. The commissioners did not act arbitrarily or capriciously by requiring a cash-in-lieu payment to satisfy the subdivision park-dedication requirement.
3. The commissioners did not act arbitrarily in determining that legal access existed to Waterfront West through Waterfront Circle and Coveview Lane.
4. The subdivision statutes and regulations did not require the Department of Environmental Quality to review and approve water and sanitation issues before conditional preliminary plat approval; DEQ approval was required before final plat approval.

KEY QUOTATIONS

“The undisputed evidence revealed that Fielder’s complaint arrived at the Clerk of District Court’s office on April 29, 2004, and therefore, was timely filed.” (¶ 18)

“Although we reverse the District Court’s determination that Fielders’ appeal had not been timely filed, we affirm the District Court’s decision to grant summary judgment to the Commissioners and Oliver.” (¶ 32)

FACTUAL BACKGROUND

Donald Oliver developed several contiguous subdivisions, including Waterfront West, under a common development plan using access roads and easements serving adjoining subdivisions. A declaration dedicated

roads serving the developments to the use of lot owners, including owners in the then-proposed irregular parcel that became Waterfront West. The county commissioners conditionally approved Waterfront West's preliminary plat, requiring a cash-in-lieu park payment and compliance with local and state subdivision requirements, including Department of Environmental Quality review of water and sanitation issues.

PROCEDURAL HISTORY

The Fielders challenged the Sanders County Commissioners' conditional approval of the preliminary plat for Waterfront West. The Twentieth Judicial District Court, Sanders County, concluded that the appeal was untimely and granted summary judgment to the county and developer after addressing the merits. The Supreme Court of Montana held that the appeal was timely, but affirmed summary judgment on the merits.

DISPOSITION

other

CASES CITED

- *Gliko v. Permann*, 2006 MT 30, 331 Mont. 112, 130 P.3d 155
- *Madison River R.V. LTD. v. Town of Ennis*, 2000 MT 15, 298 Mont. 91, 994 P.2d 1098
- *Schaffer v. Champion Home Builders Co.*, 229 Mont. 533, 747 P.2d 872 (1987)
- *Mohl v. Johnson*, 275 Mont. 167, 911 P.2d 217 (1996)
- *Cinton v. Union Pacific R. Co.*, 813 F.2d 917 (9th Cir. 1987)
- *United States v. Dae Rim Fishery Co.*, 794 F.2d 1392 (9th Cir. 1986)
- *Sheviakov v. I.N.S.*, 237 F.3d 1144 (9th Cir. 2001)
- *U.S. v. Nguyen*, 997 F. Supp. 1281 (C.D. Cal. 1998)
- *Van Hook v. Jennings*, 1999 MT 198, 295 Mont. 409, 983 P.2d 995