

CONNECTICUT APPELLATE COURT

Buschmann v. Connecticut Siting Council

Buschmann · No. AC 48168 · Decided April 28, 2026

SUMMARY

The Connecticut Appellate Court affirmed the denial of the plaintiffs’ motion to open a judgment sustaining their administrative appeal from the Connecticut Siting Council’s approval of a cell phone tower application. The court held that the plaintiffs failed to show a good and compelling reason for reopening the judgment, noting that they could challenge the council’s actions in a separate administrative appeal.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Palmer, J.; Clark, J.; Seeley, J.
JURISDICTION	Connecticut Appellate Court
DECIDED	April 28, 2026
DOCKET	AC 48168
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiffs appealed from the Superior Court's denial of their motion to open a judgment sustaining their administrative appeal from the Connecticut Siting Council's approval of a certificate for construction of a cell phone tower.
STANDARD OF REVIEW	A denial of a motion to open a judgment is reviewed for abuse of discretion. The appellate court makes every reasonable presumption in favor of the trial court's action and will not disturb the ruling if the trial court could reasonably conclude as it did.
PRECEDENTIAL VALUE	published
PARTIES	Mark Buschmann, trustee, Jamie Buschmann, trustee, Mark Buschmann, intervenor v. Connecticut Siting Council, Homeland Towers, LLC, New Cingular Wireless PCS, LLC, doing business as AT&T, Cellco Partnership, doing business as Verizon Wireless

TOPICS

judicial review of agency action

agency adjudication

standard of review

appellate procedure

administrative law

PRACTICE AREAS

administrative law

appellate procedure

environmental law

QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by denying the plaintiffs' motion to open the judgment and refusing to require a new public hearing before the newly constituted Connecticut Siting Council reconsidered the certificate application.
2. Whether the plaintiffs could use an appeal from the denial of the motion to open to obtain review of the adequacy or merits of the underlying remand order.

HOLDINGS

1. The Superior Court did not abuse its discretion in denying the motion to open because the plaintiffs failed to establish a good and compelling reason for modifying or vacating the judgment.
2. When the appeal period for the underlying judgment has expired, an appeal from denial of a motion to open may test only whether the trial court abused its discretion in refusing to open the judgment, not the merits of the underlying judgment.

KEY QUOTATIONS

“In an appeal from a denial of a motion to open a judgment, our review is limited to the issue of whether the trial court has acted unreasonably and in clear abuse of its discretion.”

“Consequently, the court acted well within its discretion in concluding that the plaintiffs failed to establish a good reason, let alone a compelling one, to grant the motion to open.”

FACTUAL BACKGROUND

The applicants sought approval to construct and operate a 115-foot wireless telecommunications tower on property in New Canaan adjoining the plaintiffs' property. The Council initially approved the application after a public hearing, but the Superior Court sustained the plaintiffs' administrative appeal because two participating Council members had prohibited affiliations under the governing statute, rendering the Council improperly constituted. On remand, a newly constituted Council unanimously approved the application without conducting a new public hearing. The plaintiffs then sought to open the prior judgment and require a new hearing.

PROCEDURAL HISTORY

The Siting Council approved the applicants' certificate application after a public hearing. The Superior Court sustained the plaintiffs' administrative appeal, concluding that the Council was improperly constituted, and remanded for proceedings consistent with its decision and General Statutes § 16-50j (b). After a newly constituted Council approved the application without holding a new public hearing, the plaintiffs moved to open

the judgment and sought an order requiring a new hearing. The Superior Court denied the motion, and the Connecticut Appellate Court affirmed.

DISPOSITION

affirmed

CASES CITED

- McGovern v. McGovern, 217 Conn. App. 636, 645-646, 289 A.3d 1255, cert. denied, 346 Conn. 1018, 295 A.3d 111 (2023)
- Total Recycling Services of Connecticut, Inc. v. Connecticut Oil Recycling Services, LLC, 308 Conn. 312, 322, 63 A.3d 896 (2013)
- Langewisch v. New England Residential Services, Inc., 113 Conn. App. 290, 293, 966 A.2d 318 (2009)