

SUPREME COURT OF IOWA

Sutton v. Dubuque City Council

729 N.W.2d 796 (Iowa 2006) · No. 04-1067, 04-1196 · Decided September 29, 2006

SUMMARY

The Supreme Court of Iowa held that a challenge to a municipal rezoning decision based on alleged illegality in the enactment of the ordinance must be brought exclusively through certiorari review. Because the plaintiffs filed a declaratory judgment action after the thirty-day certiorari period had expired, their action was untimely. The court reversed on the City's appeal and affirmed the district court's rulings rejecting the objectors' other challenges to the rezoning.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Carter, Justice
JURISDICTION	Iowa
DECIDED	September 29, 2006
DOCKET	04-1067, 04-1196
DISPOSITION	reversed
PROCEDURAL POSTURE	The City of Dubuque and Royal Oaks Development Corp. appealed a district court judgment invalidating a zoning amendment. Sutton and Banwarth separately appealed the district court's rejection of their other challenges to the rezoning.
STANDARD OF REVIEW	The Supreme Court reviewed the legal question whether certiorari was the proper and exclusive remedy for the zoning challenge and reviewed the district court's rulings on the objectors' other challenges.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	S.A. Sutton, Francine Banwarth, Dubuque City Council, Royal Oaks Development Corp. v. S.A. Sutton, Francine Banwarth, Dubuque City Council, Royal Oaks Development Corp.

TOPICS

- zoning
- municipal law
- writ of certiorari
- statute of limitations
- appellate procedure

PRACTICE AREAS

municipal law

zoning

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether a challenge alleging illegality in a city's quasi-judicial rezoning decision must be brought by writ of certiorari.
2. Whether the availability of certiorari precludes a later declaratory judgment action filed after the thirty-day certiorari limitations period has expired.
3. Whether the court should retain the holding in *Fox v. Polk County Board of Supervisors* that duplicative illegality challenges may proceed through declaratory judgment.
4. Whether the district court correctly rejected the objectors' challenges concerning the open meetings law, interference with a publicly dedicated park, off-street parking, the comprehensive plan, and arbitrary and capricious action.

HOLDINGS

1. A municipal rezoning decision, particularly a planned unit development rezoning involving identifiable proponents and opponents, notice, a public hearing, and application of standards to a particular property, is quasi-judicial in character and is subject to review by certiorari.
2. Certiorari is the proper and exclusive remedy for asserting that a city council or county board of supervisors acted illegally while exercising a quasi-judicial zoning function; a claimant may not use a later declaratory judgment action to evade the thirty-day limitations period for certiorari.
3. The court retreated from *Fox* to the extent *Fox* permitted a declaratory judgment claim duplicating an illegality challenge that was subject to certiorari.
4. The district court correctly rejected the objectors' challenges based on the open meetings law, interference with a publicly dedicated park, off-street parking requirements, the comprehensive plan, and allegedly arbitrary and capricious action.

KEY QUOTATIONS

"We hold that certiorari was the proper and exclusive remedy for asserting Sutton's and Banwarth's conflict-of-interest challenge to the PUD zoning." (729 N.W.2d at 800)

"Based on the conclusions we have reached in Division I of this opinion, we hold that Sutton's and Banwarth's action in the district court was untimely and must be dismissed on that ground." (729 N.W.2d at 801)

FACTUAL BACKGROUND

On May 8, 2003, the Dubuque City Council amended the zoning code to reclassify specified property from a commercial recreation district to a planned unit development district with a residential designation and conceptual development plan. The ordinance passed four to three, with the mayor casting the decisive vote. Sutton and Banwarth, objectors to the rezoning, alleged that the mayor had a disqualifying conflict because he or

his real estate agency could receive commissions from the project, and also raised challenges involving open meetings, a publicly dedicated park, parking requirements, the comprehensive plan, and alleged arbitrary and capricious action.

PROCEDURAL HISTORY

The Dubuque City Council enacted a zoning ordinance by a four-to-three vote. Sutton and Banwarth first sought review by certiorari, but that action was dismissed as untimely because it was not filed within thirty days under Iowa Rule of Civil Procedure 1.1402(3). They then filed a declaratory judgment action challenging the rezoning on multiple grounds. The district court rejected the City's standing and timeliness arguments but invalidated the ordinance after finding that the mayor had a disqualifying conflict of interest; the Supreme Court of Iowa held that certiorari was the exclusive and timely remedy for the illegality challenge, reversed on the City's appeal, and affirmed the district court's rulings on the objectors' other claims.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The declaratory judgment action was untimely and was to be dismissed. The district court's rulings on the objectors' other claims were affirmed.

CASES CITED

- *Montgomery v. Bremer County Board of Supervisors*, 299 N.W.2d 687, 692 (Iowa 1980)
- *Smith v. City of Fort Dodge*, 160 N.W.2d 492, 495 (Iowa 1968)
- *Buechele v. Ray*, 219 N.W.2d 679, 681 (Iowa 1974)
- *Curtis v. Board of Supervisors*, 270 N.W.2d 447, 449 (Iowa 1978)
- *Fleming v. Tacoma*, 502 P.2d 327, 331 (Wash. 1972)
- *Hirt v. Polk County Board of Commissioners*, 578 So. 2d 415, 417 (Fla. Ct. App. 1991)
- *Fox v. Polk County Board of Supervisors*, 569 N.W.2d 503 (Iowa 1997)
- *Bormann v. Kossuth County Board of Supervisors*, 584 N.W.2d 309, 313 (Iowa 1998)
- *City of Des Moines v. Des Moines Police Bargaining Unit Ass'n*, 360 N.W.2d 729, 730-31 (Iowa 1985)
- *Lewis Investments, Inc. v. City of Iowa City*, 703 N.W.2d 180, 185 (Iowa 2005)
- *Sergeant Bluff-Luton School District v. City Council of Sioux City*, 605 N.W.2d 294, 298 (Iowa 2000)