

SUPREME COURT OF ALASKA

South Anchorage Concerned Coalition, Inc. v. Municipality of
Anchorage Board of Adjustment

172 P.3d 768 (Alaska 2007) · No. S-12286 · Decided December 14, 2007

SUMMARY

The Alaska Supreme Court held that Anchorage Municipal Code 21.30.050(B), which provides for automatic denial of an appeal when a hearing transcript is not filed within thirty days, is directory rather than mandatory. The Board of Adjustment therefore had discretion to waive the filing deadline and allow the appeal to proceed, and the court remanded for consideration of whether the circumstances warranted doing so.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Fabe, Chief Justice; Eastaugh, Justice; Bryner, Justice; Carpeneti, Justice
JURISDICTION	Alaska
DECIDED	December 14, 2007
DOCKET	S-12286
DISPOSITION	remanded
PROCEDURAL POSTURE	The Coalition appealed the Board of Adjustment's refusal to set aside the dismissal of its administrative appeal from preliminary plat approval. The superior court affirmed, and the Coalition appealed to the Alaska Supreme Court.
STANDARD OF REVIEW	When the superior court acts as an intermediate appellate court in an administrative matter, the Alaska Supreme Court independently reviews the merits of the agency's decision. Because interpretation and application of the procedural ordinance did not implicate special agency expertise or fundamental policy determinations within the agency's statutory function, the court substituted its independent judgment and applied ordinary principles of statutory interpretation.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.

PARTIES

South Anchorage Concerned Coalition, Inc. v. Municipality of Anchorage Board of Adjustment, David D. Hultquist, Lesa L. Hultquist

TOPICS

municipal law

administrative law

appellate procedure

statutory interpretation

standard of review

PRACTICE AREAS

administrative law

municipal law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether Anchorage Municipal Code 21.30.050(B), which states that an appeal shall be automatically denied if the appellant fails to file the hearing transcript within thirty days, is mandatory or directory.
2. Whether the Board of Adjustment has discretion to waive or relax the transcript-filing deadline and allow the administrative appeal to proceed.

HOLDINGS

1. The ordinance's transcript-filing deadline is directory rather than mandatory.
2. The Board of Adjustment has discretion to relax the transcript-filing deadline in Anchorage Municipal Code 21.30.050(B) and allow the appeal to proceed.

KEY QUOTATIONS

“If a statute is mandatory, strict compliance is required; if it is directory, substantial compliance is acceptable absent significant prejudice to the other party.” (772)

“Apart from amounting to an automatic litigation-ending sanction, an unalterable consequence of this kind would “inhibit the discretion” of the Board of Adjustment to entertain potentially meritorious appeals.” (773)

“It is always within the discretion of a court or an administrative agency to relax or modify its procedural rules adopted for the orderly transaction of business before it when in a given case the ends of justice require it.” (773)

FACTUAL BACKGROUND

The Hultquists sought approval of a residential development plat on former gravel pits in south Anchorage, and the Platting Board approved the application in July 2004. The Coalition appealed to the Board of Adjustment and prepared the required hearing transcript, but failed to file it within the thirty-day period because of a calendaring error. It filed the transcript thirteen days late and sought to set aside the resulting dismissal; the municipal clerk and Board of Adjustment concluded they lacked authority to waive the deadline.

PROCEDURAL HISTORY

The Platting Board approved the Hultquists' development plat. The Coalition timely filed notice of appeal to the Board of Adjustment but failed to file the hearing transcript within thirty days because of a calendaring error. The municipal clerk treated the appeal as automatically denied under Anchorage Municipal Code 21.30.050(B), and the Board of Adjustment affirmed the dismissal. The superior court held that the ordinance mandated dismissal and denied rehearing. The Alaska Supreme Court reversed that interpretation and remanded for the Board of Adjustment to decide whether the deadline should be relaxed.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Board of Adjustment to consider whether the factual circumstances warranted relaxing the deadline and allowing the Coalition's appeal to proceed.

CASES CITED

- Williams v. Abood, 53 P.3d 134, 139 (Alaska 2002)
- Alaska Pub. Employees Ass'n v. State, 831 P.2d 1245, 1247 (Alaska 1992)
- Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 903 (Alaska 1987)
- City of Skagway v. Robertson, 143 P.3d 965, 968 (Alaska 2006)
- Marlow v. Municipality of Anchorage, 889 P.2d 599, 602 (Alaska 1995)
- In re Reinstatement of Wiederholt, 24 P.3d 1219, 1232-33 (Alaska 2001)
- State, Dep't of Commerce & Econ. Dev., Div. of Ins. v. Schnell, 8 P.3d 351, 357 (Alaska 2000)
- Comm'r of Ins. v. Stryker, 218 Ga. App. 716, 463 S.E.2d 163, 166 (1995)
- Mathews v. Eldridge, 424 U.S. 319, 333 (1976)
- Arbelovsky v. Ebasco Servs., Inc., 922 P.2d 225, 227 (Alaska 1996)
- Forquer v. State, Commercial Fisheries Entry Comm'n, 677 P.2d 1236, 1243 (Alaska 1984)