

SUPREME JUDICIAL COURT OF MAINE

Tremblay v. Land Use Regulation Commission, 2005 ME 110

883 A.2d 901 (Me. 2005) · Decided October 13, 2005

SUMMARY

The Supreme Judicial Court of Maine affirmed a judgment upholding the Land Use Regulation Commission's approval of a six-lot subdivision on property owned by John Hofmann. The court held that the record supported LURC's finding that Hofmann's prior intra-family land transfers did not constitute illegal subdivisions or demonstrate an intent to evade subdivision review. Because the agency's factual findings were supported, the court did not reach whether a prior illegal subdivision would legally bar approval of a later subdivision application.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Clifford, J.; Dana, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	October 13, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Abutting landowners appealed the Superior Court's judgment affirming the Land Use Regulation Commission's approval of a six-lot subdivision. The Supreme Judicial Court reviewed the agency decision directly because the Superior Court acted in an intermediate appellate capacity under Maine Rule of Civil Procedure 80C.
STANDARD OF REVIEW	When the Superior Court acts in an intermediate appellate capacity under Maine Rule of Civil Procedure 80C, the Supreme Judicial Court reviews the agency's decision directly for legal errors, an unsustainable exercise of discretion, or unsupported findings of fact.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine.
PARTIES	Gabriel Tremblay, Katherine Tremblay v. Land Use Regulation Commission, John Hofmann, Lise Hoffman

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QUESTIONS PRESENTED

1. Whether LURC's finding that Hofmann's prior intra-family land transfers did not create an illegal subdivision was supported by the record.
2. Whether the alleged prior illegal subdivision independently barred LURC from approving Hofmann's later subdivision application.

HOLDINGS

1. LURC did not clearly err in finding that Hofmann's prior intra-family transfers did not create an illegal subdivision or demonstrate an intent to avoid subdivision review.
2. The court did not reach the legal question whether a prior illegal subdivision would bar approval of a subsequent otherwise valid subdivision because LURC's finding that no prior illegal subdivision existed was supported by the record.
3. Tinsman did not require vacatur because that case involved a different factual finding: the local decisionmaker had found an intent to evade subdivision laws, whereas LURC found no such intent here.

KEY QUOTATIONS

“When the Superior Court acts in an intermediate appellate capacity pursuant to M.R. Civ. P. 80C, we review [the administrative] agency's decision directly.” (883 A.2d at 903)

“We cannot substitute our own factual determination for that of the agency charged with oversight when the record is sufficient to support the agency's finding.” (883 A.2d at 905)

“Accordingly, we conclude that LURC did not err when it approved the current subdivision application presented by Hofmann.” (883 A.2d at 906)

FACTUAL BACKGROUND

John Hofmann owned several parcels near Cupsuptic Lake, including Parcels B and C. After LURC denied a proposed twenty-six-lot subdivision of Parcel B, Hofmann divided portions of his property among himself, his wife, and his sons, and later additional parcels were created and transferred. LURC subsequently approved a six-lot subdivision involving portions of Parcels B and C, finding that the prior transactions did not constitute illegal subdivisions or reflect an intent to evade subdivision review.

PROCEDURAL HISTORY

LURC approved John Hofmann's six-lot residential subdivision in May 2003. The Tremblays challenged the approval, arguing principally that Hofmann's earlier intra-family land transfers had created an illegal subdivision that barred approval of the later application. The Superior Court affirmed LURC's decision and dismissed the Tremblays' independent nuisance and declaratory-judgment claims. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- S.D. Warren Co. v. Board of Environmental Protection, 2005 ME 27, ¶ 4, 868 A.2d 210, 213
- Suzman v. Commissioner, Department of Health & Human Services, 2005 ME 80, ¶ 24, 876 A.2d 29, 36
- Tinsman v. Town of Falmouth, 2004 ME 2, ¶¶ 11-15, 840 A.2d 100, 103-04

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