

SUPREME COURT OF OHIO

Shelly Materials, Inc. v. Streetsboro Planning & Zoning Commission

Shelly Materials, Inc. v. Streetsboro Planning & Zoning Comm., 2019-Ohio-4499 (Ohio 2019) · No. 2018-0237
· Decided November 5, 2019

SUMMARY

The Supreme Court of Ohio held that a court of appeals reviewing a common pleas court decision in an R.C. Chapter 2506 administrative appeal may not reweigh the evidence. The court reversed the Eleventh District Court of Appeals and remanded for consideration of other issues, including a challenge involving a conditional-use permit for surface mining.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Stewart, J.; Kennedy, J.; Donnelly, J.; Fischer, J.; DeWine, J.; O'Connor, C.J.; Zimmerman, J.
JURISDICTION	Ohio
DECIDED	November 5, 2019
DOCKET	2018-0237
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Shelly Materials appealed the denial of its conditional-use permit for surface mining under Ohio Revised Code Chapter 2506. The court of common pleas reversed the planning and zoning commission, the Eleventh District Court of Appeals reversed the common pleas court, and the Supreme Court of Ohio reversed the court of appeals and remanded.
STANDARD OF REVIEW	In an R.C. Chapter 2506 appeal, the court of common pleas reviews the entire record and may reverse an administrative decision if it is unconstitutional, illegal, arbitrary, capricious, unreasonable, or unsupported by a preponderance of substantial, reliable, and probative evidence. The court of appeals reviews only questions of law and may determine whether the common pleas court abused its discretion; it may not reweigh the evidence.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential within Ohio.

PARTIES

Shelly Materials, Inc. v. The City of Streetsboro Planning and Zoning Commission, City of Streetsboro planning and zoning director, City of Streetsboro zoning inspector

TOPICS

judicial review of agency action

administrative law

appellate procedure

zoning

mining law

PRACTICE AREAS

administrative law

zoning

municipal law

appellate procedure

mining law

QUESTIONS PRESENTED

1. Whether the Eleventh District Court of Appeals exceeded its limited scope of review under R.C. 2506.04 by reweighing the evidence and second-guessing the common pleas court's assessment of the credibility and weight of Shelly's expert appraisal evidence.
2. Whether the presence of any one of the six grounds listed in R.C. 2506.04 independently permits the court of common pleas to reverse an administrative order.

HOLDINGS

1. A court of appeals reviewing a court of common pleas judgment in an R.C. Chapter 2506 administrative appeal is limited to questions of law and may review for abuse of discretion, but it may not reweigh the evidence or second-guess the common pleas court's determination concerning the weight and credibility of evidence.
2. The six statutory grounds for reversal listed in R.C. 2506.04 are stated in the disjunctive, and the presence of any one of them independently justifies reversal of an administrative order by the court of common pleas.

KEY QUOTATIONS

"While the court of common pleas is required to examine the evidence, the court of appeals may not weigh the evidence." (§ 17)

"This was not a question of law for the court of appeals to decide in an administrative appeal under R.C. 2506.04; it was a question concerning the weight of the evidence to be given to the expert's opinion." (§ 18)

FACTUAL BACKGROUND

Shelly Materials leased the mineral rights to approximately 225 acres in Streetsboro known as Sahbra Farms to conduct surface mining of sand and gravel. The property was zoned rural residential, where surface mining was conditionally permitted when Shelly applied. After hearings, the planning and zoning commission denied the permit, finding that Shelly had not shown by clear and convincing evidence that the proposed mining operation would satisfy the zoning ordinance, including the requirement that it not be detrimental to nearby property or the

community. The commission rejected or discounted Shelly's real-estate appraiser's analysis concerning the effect of nearby mining on property values.

PROCEDURAL HISTORY

Shelly filed an application for a conditional-use permit to conduct surface mining on leased mineral-rights property in Streetsboro. The planning and zoning commission denied the application, concluding that Shelly had not established by clear and convincing evidence that the proposed use satisfied the zoning ordinance's standards. The Portage County Court of Common Pleas reversed, but the Eleventh District reversed the common pleas court based on the commission's permissible rejection of Shelly's appraisal evidence. The Supreme Court of Ohio held that the court of appeals exceeded its limited scope of review by reweighing the evidence and remanded for consideration of the remaining issues.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the Eleventh District Court of Appeals for further consideration of the issues it had not addressed, consistent with the Supreme Court of Ohio's opinion.

CASES CITED

- Freedom Rd. Found. v. Ohio Dept. of Liquor Control, 80 Ohio St. 3d 202, 205, 685 N.E.2d 522 (1997)
- Kisil v. Sandusky, 12 Ohio St. 3d 30, 34, 465 N.E.2d 848 (1984)
- Cincinnati Bell, Inc. v. Glendale, 42 Ohio St. 2d 368, 370, 328 N.E.2d 808 (1975)
- Independence v. Office of the Cuyahoga Cty. Executive, 142 Ohio St. 3d 125, 2014-Ohio-4650, 28 N.E.3d 1182, ¶¶ 13-14
- Dudukovich v. Lorain Metro. Hous. Auth., 58 Ohio St. 2d 202, 207, 389 N.E.2d 1113 (1979)
- Cleveland Clinic Found. v. Cleveland Bd. of Zoning Appeals, 141 Ohio St. 3d 318, 2014-Ohio-4809, 23 N.E.3d 1161, ¶ 24
- Boice v. Ottawa Hills, 137 Ohio St. 3d 412, 2013-Ohio-4769, 999 N.E.2d 649, ¶ 7
- State v. Beasley, 153 Ohio St. 3d 497, 2018-Ohio-493, 108 N.E.3d 1028, ¶ 162
- United States v. Glanat Realty Corp., 276 F.2d 264, 266 (2d Cir. 1960)
- Kokitka v. Ford Motor Co., 73 Ohio St. 3d 89, 92, 652 N.E.2d 671 (1995)
- Hartt v. Munobe, 67 Ohio St. 3d 3, 5, 615 N.E.2d 617 (1993)
- Normandy Place Assocs. v. Beyer, 2 Ohio St. 3d 102, 105, 443 N.E.2d 161 (1982)