

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Standerwick v. Zoning Board of Appeals of Andover

447 Mass. 20 (2006) · Decided June 16, 2006

SUMMARY

The Massachusetts Supreme Judicial Court considered whether abutting and neighboring landowners could establish standing to challenge a comprehensive permit issued under the Commonwealth's affordable-housing statute, G. L. c. 40B. The court held that alleged diminution in property values, untethered to an interest protected by c. 40B, is not a legally cognizable basis for standing. The court also addressed the rebuttable presumption of standing afforded to abutters and the evidence sufficient to overcome that presumption.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Marshall, C.J.
JURISDICTION	Massachusetts
DECIDED	June 16, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Abutting and neighboring landowners appealed a comprehensive permit issued under G. L. c. 40B to the Superior Court, claiming they were persons aggrieved. The Superior Court granted the developer summary judgment for lack of standing. The Appeals Court reversed, and the Supreme Judicial Court granted further appellate review.
STANDARD OF REVIEW	Review of summary judgment; the court viewed the material evidence in the light most favorable to the nonmoving party and determined whether the moving party established that the plaintiffs had no reasonable expectation of proving a legally cognizable injury or other essential element of standing.
PRECEDENTIAL VALUE	binding
PARTIES	Standerwick and other plaintiffs v. Avalon at St. Clare, Inc., Zoning Board of Appeals of Andover

TOPICS

zoning

standing

summary judgment

statutory interpretation

municipal law

PRACTICE AREAS

real estate

zoning

municipal law

civil procedure

QUESTIONS PRESENTED

1. Whether diminution in the value of property abutting an affordable-housing development is an injury to an interest protected by G. L. c. 40B and therefore a cognizable basis for standing to challenge a comprehensive permit.
2. Whether an abutter's presumptive standing is rebutted when the defendant presents evidence showing that the plaintiff has no reasonable expectation of proving a legally cognizable injury, including reliance on the plaintiff's discovery responses and expert evidence addressing other claimed impacts.
3. Whether the plaintiffs established standing based on their remaining allegations of traffic, drainage, crime, vandalism, noise, privacy, or other impacts after the presumption of standing was rebutted.

HOLDINGS

1. A claim that an affordable-housing project will diminish the value of abutting property is not, standing alone, an injury to an interest protected by G. L. c. 40B and therefore does not confer standing to challenge the comprehensive permit.
2. An abutter's presumption of standing is rebutted when the defendant offers evidence warranting a finding contrary to the presumed fact; the plaintiff then bears the burden of proving standing, and the defendant need not affirmatively disprove every asserted injury.
3. The plaintiffs did not establish standing because the developer rebutted their presumptive standing and the plaintiffs failed to provide direct, non-speculative evidence of an injury to a legally cognizable interest protected by c. 40B.

KEY QUOTATIONS

"Because the diminution of real estate values is not an injury to an interest that G. L. c. 40B was intended to protect, we conclude that it does not." (447 Mass. at 20)

"The preservation of real estate values of property abutting an affordable housing development is clearly not a concern that the G. L. c. 40B regulatory scheme is intended to protect." (447 Mass. at 30-31)

"Once the presumption is rebutted, the burden rests with the plaintiff to prove standing, which requires that the plaintiff 'establish — by direct facts and not by speculative personal opinion — that his injury is special and different from the concerns of the rest of the community.'" (447 Mass. at 33-35)

FACTUAL BACKGROUND

Avalon at St. Clare sought to construct a 115-unit, four-story apartment building in Andover, including twenty-nine units of affordable housing, on a site zoned for single-family homes. Abutting and neighboring landowners challenged the comprehensive permit, alleging impacts including traffic, drainage, noise, privacy, crime, and diminished property values. The developer submitted expert evidence concerning traffic, drainage, water, and

sewer impacts, while the plaintiffs submitted real-estate affidavits asserting that the project would reduce their property values.

PROCEDURAL HISTORY

The Andover zoning board denied the developer's initial comprehensive-permit application, after which the developer appealed to the housing appeals committee and participated in mediation. The board later approved a revised 115-unit affordable-housing project. The plaintiffs challenged the permit, asserting several injuries, including diminution in property values. The Superior Court granted summary judgment to the developer; the Appeals Court reversed; the Supreme Judicial Court affirmed the Superior Court's judgment.

DISPOSITION

affirmed

CASES CITED

- Standerwick v. Zoning Bd. of Appeals of Andover, 64 Mass. App. Ct. 337 (2005)
- Planning Bd. of Hingham v. Hingham Campus, LLC, 438 Mass. 364 (2003)
- Bell v. Zoning Bd. of Appeals of Gloucester, 429 Mass. 551 (1999)
- Board of Appeals of Hanover v. Housing Appeals Comm., 363 Mass. 339 (1973)
- Zoning Bd. of Appeals of Wellesley v. Ardmore Apartments Ltd. Partnership, 436 Mass. 811 (2002)
- Marotta v. Board of Appeals of Revere, 336 Mass. 199 (1957)
- Harvard Sq. Defense Fund, Inc. v. Planning Bd. of Cambridge, 27 Mass. App. Ct. 491 (1989)
- Circle Lounge & Grille, Inc. v. Board of Appeal of Boston, 324 Mass. 427 (1949)
- Tsagronis v. Board of Appeals of Wareham, 415 Mass. 329 (1993)
- Tranfaglia v. Building Comm'r of Winchester, 306 Mass. 495 (1940)
- Kourouvacilis v. General Motors Corp., 410 Mass. 706 (1991)
- Marinetti v. Board of Appeals of Stoughton, 440 Mass. 255 (2003)