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ZONING - OHIO

Nassef v. Union Twp. Bd. of Zoning Appeals

Court of Appeals of Ohio, Twelfth District, Clermont County - September 23, 2013 - Slip Copy - 2013 -Ohio- 4130

Doctor had operated a licensed medical practice since 2006. In 2011, he began prescribing patients with opioid dependency a drug called Suboxone. Soon thereafter, a citation was issued to doctor for violating the Union Township Zoning Resolution for operating a "Suboxone Treatment Center" on the property without first obtaining a change in use permit.

Doctor then applied for a change in use permit, which was denied by the Planning and Zoning Director of Union Township. The Zoning Director stated that a "Suboxone Treatment Center" is a substance abuse treatment center, which is not specifically listed as an approved function within the B–1 Business District where the property is located. The Union Township Zoning Resolution provides that uses which are not specifically permitted are prohibited, and thus the Doctor's substance abuse treatment center was not permitted under the zoning classification. The Zoning Board of Appeals ("ZBA") confirmed the decision and doctor appealed.

The Common Pleas Court found that doctor's clinic fell within the practice of medicine, vacating the ZBA's decision. Consequently, the Court found that the treatment of patients with opioid dependency, including prescribing Suboxone, is within the scope of the Union Township Zoning Resolution allowing medical clinics in the B–1 Business District where Doctor's property is located.

The Court of Appeals affirmed, holding that the Common Pleas Court decision finding that a substance abuse treatment center falls within the definition of "medical clinic" in the Union Township Zoning Resolution is supported by a preponderance of reliable, probative, and substantial evidence.

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