
ZONING - MICHIGAN

Grand/Sakwa of Northfield, LLC v. Township of Northfield

Court of Appeals of Michigan - February 4, 2014 - N.W.2d - 2014 WL 436736

The Lelands own four parcels of land totaling approximately 220 acres (the property) in Northfield Township. Before the events that gave rise to the present dispute, the property had been zoned AR Agricultural (AR), and had been farmed for over 100 years.

In January 2002, Grand/Sakwa executed an agreement to purchase the property from the Lelands. On June 30, 2003, plaintiffs applied to rezone the property from AR to SR–1 single-family residential (SR–1) in 2003. SR–1 zoning allows up to four dwellings per acre with sewer service, or one per acre without sewer service. On November 18, 2003, the township board approved the rezoning, limited to 450 homes. Following that approval, township residents organized a successful referendum, held May 18, 2004, which overruled the board's decision, thereby leaving the property zoned AR. After the referendum, the Northfield Township Zoning Board of Appeals denied plaintiffs' requests for use or dimensional zoning variances.

Plaintiffs filed suit on October 22, 2004. They alleged that any zoning classification more restrictive than SR–1 constituted a regulatory taking. Shortly after the lawsuit was filed, a new township board took office. A majority of the new board's members were organizers or supporters of the referendum that overruled the board's 2003 rezoning of the property to SR–1. The new board fired its planner and took action to amend the zoning ordinances, rezoning the property from AR to LR low-density residential (LR). The LR classification itself was amended to allow only one home per two acres, instead of the previously-allowed one home per acre.

At the time of the bench trial, therefore, the property was zoned LR. Plaintiffs argued that whether or not a regulatory taking existed should be determined by evaluating the AR zoning that existed at the time the lawsuit was filed. The township argued that whether or not a taking existed should be determined based upon the LR zoning that existed at the time the trial court heard the proofs and rendered a decision. Thus, before determining whether the zoning constituted a regulatory taking, the trial court had to determine which zoning ordinance was to be tested. The trial court ruled that the relevant zoning ordinance was the one then in place, i.e., LR zoning. After the full trial, the court held in the township's favor on all of plaintiffs' claims, finding no constitutional violation.

Plaintiffs appealed and the court of appeals affirmed.

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