
ZONING & PLANNING - DELAWARE

Ocean Bay Mart, Inc. v. City of Rehoboth Beach Delaware

Supreme Court of Delaware - September 30, 2022 - A.3d - 2022 WL 4587490

Owner of city real estate brought action against city, alleging that it had a vested right to approval of site plan proposing to develop property into 63 residential condominium units as a single, undivided parcel, substantially in the form submitted without going through major subdivision approval, since owner had begun the approval process before zoning code amendments were enacted, seeking a declaratory judgment, and alleging that city was equitably estopped from enforcing against owner zoning code amendments that were adopted after site plan had been submitted.

The Court of Chancery found in favor of city. Owner appealed.

The Supreme Court held that:

- Substantial question existed as to whether plan complied with city's existing zoning law;
- Court of Chancery did not abuse its discretion in concluding that property owner could not reasonably have relied on vague and indirect interaction between owner's real estate agent and building inspector;
- Court of Chancery did not abuse its discretion in finding that owner did not reasonably rely on conversation in which owner's attorney confirmed with city solicitor that a condominium was not a subdivision;
- Court of Chancery did not abuse its discretion in determining that approval of other condominium projects did not support claim of reliance to establish vested right in development plan;
- Owner could not have reasonably relied on decision of Board of Adjustment overruling building inspector's decision that condominium development could not be approved as a single, undivided parcel;
- There was no evidence that owner relied upon rule of statutory construction that ambiguity in a statute will be resolved in favor of owner;
- Amended zoning ordinances unambiguously applied to owner's pending site plan application; and
- Court of Chancery did not abuse its discretion in finding that city was not equitably estopped from applying amended zoning ordinances to pending site plan application.

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