

Court of Appeals, State of Michigan

ORDER

Forest Hill Energy-Fowler Farms LLC v Township of Bengal

Docket No. 319134

LC No. 13-011152-CK

Amy Ronayne Krause
Presiding Judge

Kurtis T. Wilder

Cynthia Diane Stephens
Judges

The Court orders that the motion for reconsideration is DENIED.

Wilder, J., would grant the motion for reconsideration and states as follows: “I would grant defendant’s motion for reconsideration. In our opinion, we stated that “if the [defendant’s] ordinances qualify as zoning ordinances, then MCL 125.3210 establishes that Clinton County’s Zoning ordinance will be deemed controlling to the extent of any inconsistencies between defendant’s ordinance and the county’s ordinance. That is, if defendant’s ordinances are de facto zoning laws, then they are preempted.” On further reflection, I have reached the conclusion that this finding was overly broad, because the plain language of MCL 125.3210 only provides that an ordinance enacted under the Michigan Zoning Enforcement Act (MZEA) will prevail over an ordinance not enacted under the MZEA when there are inconsistencies between the two enacted ordinances.

The question remains whether defendant’s ordinances conflict with Clinton County’s ordinance. Again, after further reflection, I have concluded that, while defendant’s ordinances have stricter requirements than the county ordinance, defendant’s ordinances do not necessarily conflict with the county ordinance. As such, I no longer agree with the finding in the opinion that “defendant’s ordinances must yield to the county’s ordinance . . . because defendant’s ordinances were not enacted under the MZEA”

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



JUN 16 2015

Date

Jerome W. Zimmer Jr.
Chief Clerk