

**Fahey Schultz
Burzych Rhodes**

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Year in Review: *2020 Zoning and Planning Court Decisions*

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Cases For Discussion

- *Charter Twp. of Ypsilanti v. Pontius*
 - *Post DeRuiter*
- *The Jazz Club 2, LLC v. City of Detroit Bd. of Zoning Appeals*
- *Quality Mkt. v. City of Detroit Bd. of Zoning Appeals*
- *Ansell v. Delta Cty. Planning Comm'n*
- *Randazzo v. Lake Twp.*



Charter Twp. of Ypsilanti v. Pontius

- This is was a post-*DeRuiter* application of locational restrictions on primary caregivers.
 - *DeRuiter* allowed for municipalities to maintain zoning control over MMMA-related land uses.
- In this case, the location of primary caregiver operations was restricted by local ordinance.
- The Court of Appeals concluded:
 - The “local restrictions” complemented the MMMA as opposed to conflicting with it;
 - The locational restrictions and the municipal zoning authority should be upheld; and
 - If there would have been a complete prohibition, there probably would have been a different result.



The Jazz Club 2, LLC v. City of Detroit Bd. of Zoning Appeals

- This case interpreted drug-free zones under a local ordinance.
 - In the context of Medical Marihuana Caregiver Operation.
- The Court of Appeals concluded:
 - A “greenway” was not defined in the drug-free zone limitations;
 - The omission of the definition should be treated as intentional; and
 - The conditional use permit of the Medical Marihuana Caregiver Operation should be granted.



Quality Mkt. v. City of Detroit Bd. of Zoning Appeals

- In this case, the party appealing a ZBA decision did not file timely under MCL 125.3606
 - Requires filing within 21 days after the minutes for a ZBA decision are approved; or
 - Within 30 days after a written decision from the ZBA, whichever occurs first.
- The Court of Appeals concluded:
 - The party did not timely file its appeal within 21 days after the minutes were approved, thus dismissing the grounds for an appeal.
- Appeals of ZBA Decisions must be timely filed.



Ansell v. Delta Cty. Planning Comm'n

- The Court of Appeals (on an issue of first impression) concluded:
 - The applicable standard for who may appeal a zoning decision, including a decision from a Planning Commission, is an “aggrieved party” standard; and
 - If a party appealing a zoning decision (of any type) is not an “aggrieved party,” they will not have standing.
- The “aggrieved party” standard applies to appeals of ALL zoning decisions.



Randazzo v. Lake Twp.

- The factors a court will evaluate when a ZBA decision is successfully appealed are:
 - It complied with the Constitution and laws of the state;
 - It was based upon proper procedure; and
 - It was supported by competent, material, and substantial evidence.
- If any of these requirements are not met, there is a basis for a reversal of the decision.
- When evaluating the third prong in a non-conforming building context, the Court of Appeals concluded:
 - There was not **substantial evidence** to show that land use permit would add to a non-conformity, thus it would not actually violate the ordinance.





Questions

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