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SCHOOL DISTRICTS SUBJECT TO ZONING REGULATIONS

For the first time, the Illinois Appellate Court has ruled without condition that school districts are subject to the zoning regulations of local municipalities. The ruling was announced this month in the case of ***Gruba vs. Community High School District 155***, 2014 Ill App 2d 140098.

The facts of the case are relatively straightforward. Crystal Lake School District 155 constructed bleachers for the football field at one of its campuses located in the City of Crystal Lake. The School District submitted plans and received approval and a building permit from the McHenry County Regional Superintendent of Schools. The School District did not, however, receive approval (nor did it even notify) the City of Crystal Lake. The new bleachers would have required a variance or a special use permit as the bleachers violated numerous zoning and storm water ordinances of the City.

A lawsuit was filed against the School District, not

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by the City, but by neighboring landowners seeking to privately enforce the City's zoning and storm water ordinances. The Circuit Court ruled in favor of the neighboring landowners, concluding that the School District was subject to Crystal Lake's zoning and storm water ordinances. The School District then appealed to the Second District Illinois Appellate Court, which affirmed the decision of the trial court, holding unequivocally that school districts are subject to the zoning regulations of local municipalities.

For decades, this has been a gray area of the law. Prior to this decision, the apparent rule was that school districts and other special districts are only subject to local municipal zoning ordinances if those ordinances do not frustrate the school districts' or other special districts' statutory purposes. A previous line of cases, including the 1986 Illinois Supreme Court case of *Wilmette Park District vs. Village of Wilmette*, 112 Ill.2d 6 emphasized the importance of inter-governmental cooperation in these situations and concluded that the best way to reconcile competing interests of local governmental entities was to require participation in the re-zoning or special use permit process of the host municipality.

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If, at the end of that process, a special district determined that the municipal requirements were frustrating the district's statutory purposes, then the district could seek redress in the court system. Curiously, in *Gruba* there was no direct reference by the Court to the *Wilmette Park District* case in the entire 42-page opinion (although the Court tangentially addressed it in discussing a recent Attorney General opinion).

The Second District Appellate Court placed great emphasis on Section 10-22.13a of the Illinois School Code in reaching its decision. That section provides school boards with the power "[t]o seek zoning changes, variances, or special uses for property held or controlled by the School District." 105 ILCS 5/10-22.13a The Court reasoned that the legislature obviously intended for school districts to be subject to local municipal zoning ordinances or this section of the School Code would be superfluous.

It is important to note that this decision does not require school districts to comply with local municipal building codes. The Health/Life Safety Code remains the governing code of public school buildings and the Regional Offices of Education continue to have jurisdiction over school construction projects.

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