Published November 5, 2015

PETRARCA, GLEASON,
BOYLE & IZZO, LLC
ATTORNEYS AT LAW

Illinois Supreme Court: School Districts are Subject to Municipal Zoning Regulations

Clarifying what has previously been a gray area of the law, the Illinois Supreme Court has ruled that school districts are subject to municipal zoning ordinances. In *Gurba v. Community High School District No. 155*, 2015 IL 118332 (2015), the Court determined that the Crystal Lake School District illegally constructed football field bleachers when it did not receive approval or notify the City of Crystal Lake. This decision immediately impacts school districts statewide.

As we previously reported (September 23, 2014), the facts of this case are relatively straightforward. Crystal Lake School District constructed bleachers for the football field at one of its campuses located in the City of Crystal Lake. As it is required to do under Section 3-14.20 of the Illinois School Code (105 ILCS 5/3-14.20), the School District submitted plans and received approval from the McHenry County Regional

19730 Governors Highway, Suite 10, Flossmoor, IL 60422-2083
Telephone: **708.799.6766** | Facsimile: 708.799.6866

PETRARCA, GLEASON,
BOYLE & IZZO, LLC
ATTORNEYS AT LAW

Superintendent of Schools. The School District did not, however, receive approval or notify the City of Crystal Lake of its plans. The new bleachers would have required a variance or a special use permit as the bleachers violated numerous city zoning and storm water ordinances.

Both the Circuit Court and the Appellate District ruled in favor of the neighboring landowners who had sought to enforce the city's ordinances. The School District then appealed to the Illinois Supreme Court. On September 24, 2015, the Supreme Court determined that since the General Assembly had not enacted any statute expressly preempting or limiting a home rule unit's zoning power over public school property, it is within a city's home rule authority to impose its zoning ordinances on the School District.

The Supreme Court, like the Appellate Court before it, put great emphasis on Section 10-22.13a of the Illinois School Code. That section authorizes a school board "[t]o seek zoning changes, variations, or special uses for property held or controlled by the zoning district." 105 ILCS 5/10-22.13a. The Supreme Court determined that it would be unnecessary for the General Assembly to authorize a school district to seek zoning changes if it did

not intend for school property to be subject to local zoning ordinances in the first place.

The Supreme Court found further support for its decision in *Wilmette Park District v. Village of Wilmette*, 112 Ill. 2d 6 (1986). The Court in *Wilmette* decided that a special use hearing is the best possible way to reconcile the competing interests of two governmental entities, but that if a municipality administers its zoning ordinance in an unreasonable, arbitrary, or discriminatory manner, judicial review is still available to the aggrieved entity.

The *Gurba* decision aligns with *Wilmette* and does not overrule it. Although it is now clear that School Districts must abide by municipal zoning codes, it does not follow that a municipality's zoning decision is now the final decision. School districts maintain recourse to challenge an unreasonable, arbitrary or discriminatory decision through the judicial process.

If you have questions regarding this guidance or would like to discuss your school district's building projects, please contact one of our attorneys in Flossmoor at 708.799.6766 or Oakbrook at

Published November 5, 2015

PETRARCA, GLEASON, BOYLE & IZZO, LLC
ATTORNEYS AT LAW

630.928.1200.

19730 Governors Highway, Suite 10, Flossmoor, IL 60422-2083
Telephone: **708.799.6766** | Facsimile: 708.799.6866