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In NCLA Victory, WY Supreme Court Reverses Local Planning Comm. Attempt to Enforce Guidance

Asphalt Specialties Co., Inc. v. Laramie County Planning Commission

Washington, DC (February 2, 2021) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, commends the Wyoming Supreme Court for its [ruling](#) to reverse and set aside the decision of the Laramie County Planning Commission (the Commission) in the case of *Asphalt Specialties Co., Inc. v. Laramie County Planning Commission*. This victory reinforces a major administrative law point that NCLA is pressing, regulators cannot restrict people’s conduct based on nonbinding guidance documents.

The opinion, authored by Justice Lynne J. Boomgaarden, agreed with NCLA that the Commission exceeded its statutory authority when it utilized its comprehensive land-use vision plan—a mere guidance document—and the site plan review process to block Asphalt Specialties Co., Inc (ASCI) from using its land for a limited gravel mining operation. “Counties may only restrict a land use pursuant to zoning,” declared the Court in its opinion. “ASCI’s Lone Tree Creek property is not zoned. The Commission therefore exceeded its statutory authority when it utilized its comprehensive land use plan and the site plan review process to outright deny ASCI use of its land for a limited gravel mining operation.” The Court also ruled that the Commission’s decision to use a vision planning guidance document to stop ASCI’s gravel quarry development was “arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.”

The Court’s reversal of the Commission’s decision sends a warning message to other government agencies that openly or tacitly demand compliance with their “vision” or other guidance documents in violation of private property rights. In Wyoming, the ruling should limit the Commission’s ability to force other landowners to comply with their nonbinding guidance documents in the future. NCLA firmly holds that the only mechanism available to constrain the use of private property in such cases is through lawful zoning ordinances—properly and legally enacted by the appropriate elected officials.

NCLA released the following statements:

“I want to thank the Supreme Court of Wyoming for this decision reaffirming individual property rights—and doing so in a plainspoken manner which ordinary citizens can understand. I also want to give Harriet Hageman and the New Civil Liberties Alliance my heartfelt thanks for taking up this case. As has become ever more apparent in the past year, it is important to stand up for individual rights—property rights being key amongst them—against the ever-increasing usurpation of these rights by government and regulatory agencies.”

— **Dan Hunt, President of Asphalt Specialties Co., Inc.**

“NCLA applauds the court’s decision, which corrects the injustice of using legally unenforceable guidance documents to deprive citizens of their civil liberties. The Wyoming Supreme Court easily recognized that the Planning Commission’s decision to prevent ASCI from developing its private property violated the Constitution and Wyoming statutory law. So yes, there really is a Constitution, and when the rights it guarantees are protected and allowed to flourish, we are all better off.”

— **Harriet Hageman, Senior Litigation Counsel, NCLA**

For more information about this case visit [here](#).

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar Philip Hamburger to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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