

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
MADISON COUNTY

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|-------------------------|---|------------------------|
| PUBLIC SAFETY SERVICES, | : | |
| & TRAINING CENTER LLC, | : | CASE NO. CA2001-06-015 |
| | : | (Accelerated Calendar) |
| Plaintiff-Appellant, | : | |
| - vs - | : | <u>JUDGMENT ENTRY</u> |
| | : | 12/3/2001 |
| | : | |
| MADISON COUNTY BOARD OF | : | |
| ZONING APPEALS, | : | |
| | : | |
| Defendant-Appellee. | : | |

This cause is an accelerated appeal from a Madison County Court of Common Pleas judgment entry affirming a Madison County Board of Zoning Appeals ("MCBZA") decision to deny appellant's applications for a conditional use zoning permit and certificate.

Appellant's first and second assignments of error are overruled on the authority of Holiday Homes, Inc. v. Butler Cty. Bd. of Zoning Appeals (1987), 35 Ohio App.3d 161. The doctrine of res judicata applies to a decision by a county zoning board of appeals granting a conditional use permit that is not timely appealed. See id. at 612-14. Appellant's applications for an unrestricted unconditional use permit and a new zoning certificate for an unrestricted conditional use permit

are a thinly veiled attempt to circumvent the application of res judicata to the MCBZA's earlier grant of a conditional use permit. Since res judicata applies, the remaining issues in appellant's appeal are rendered moot.

In consideration of the foregoing, the judgment of the trial court is affirmed.

Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and shall not be published in any form.

A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27. Costs to be taxed to appellant.

William W. Young, Presiding Judge

Anthony Valen, Judge

Stephen W. Powell, Judge