

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

YJW Holdings, Ltd., et al.

Court of Appeals No. L-08-1298

Appellants

Trial Court No. CI0200703336

v.

City of Toledo

DECISION AND JUDGMENT

Appellee

Decided: February 20, 2009

* * * * *

John F. Potts, for appellants.

Adam W. Loukx, Acting Director of Law and
John T. Madigan, Chief Counsel, for appellee.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} This accelerated, administrative appeal is before the court following the August 21, 2008 judgment of the Lucas County Court of Common Pleas which dismissed the appeal of plaintiffs-appellants, YJW Holdings, Ltd. and Young Joo Wheeler, against defendant-appellee, city of Toledo, for failure to exhaust their administrative remedies.

{¶ 2} Appellants raise the following assignments of error for our consideration:

{¶ 3} "I. It constituted error to hold that Appellants failed to exhaust their administrative remedies.

{¶ 4} "II. It constituted error to hold that there was no jurisdiction to entertain Appellants' claim."

{¶ 5} This court has fully and carefully reviewed the record and the applicable case law and finds that the August 21, 2008 opinion and judgment entry of the Honorable Charles J. Doneghy is an appropriate and lawfully correct discussion of the facts and law involved in this case. Accordingly, we adopt the trial court's well-reasoned decision as our own (see Appendix A) with two minor citation changes: (1) *Helms v. Northeast Ohio Four Cty. Regional Planning and Dev. Org.*, 9th Dist. No. 23526, 2007-Ohio-3059 (corrected Ohio WebCite number); and (2) *IBM Corp. v. Bd. of Rev.*, 10th Dist. No. 06AP-108, 2006-Ohio-6258, ¶ 12 (corrected paragraph reference.)¹ Appellants' first and second assignments of error are not well-taken.

{¶ 6} On consideration whereof, we find that substantial justice has been done the party complaining and the judgment of the Lucas County Court of Common Pleas is affirmed. Appellants are ordered to pay the costs of this appeal pursuant to App.R. 24.

¹We further add that TMC 1301.02(b) sets forth the scope of the building code as follows:

"This Part Thirteen-Building Code presumptively provides for matters concerning, affecting or relating to the construction, alteration, repairs, removal, demolition, equipment, *use and occupancy*, location and maintenance of buildings or structures, erected or to be erected in the City * * *." (Emphasis added.)

Judgment for the clerk's expense incurred in preparation of the record, fees allowed by law, and the fee for filing the appeal is awarded to Lucas County.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.