

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 19, 2007

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2007AP151

Cir. Ct. No. 2004FO1138

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

POLK COUNTY,

PLAINTIFF-RESPONDENT,

V.

ROBERT C. BLOOMER, GLENN BLOOMER AND KATHERINE BLOOMER,

DEFENDANTS-APPELLANTS.

APPEAL from an order of the circuit court for Polk County:
ROBERT RASMUSSEN, Judge. *Affirmed.*

¶1 CANE, C.J.¹ This case requires us to interpret Polk County's Shoreland Protection Zoning Ordinance, which requires a special exception permit for the operation of a resort. Robert, Glenn and Katherine Bloomer appeal an

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(b). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

order granting an injunction that prohibits them from advertising or renting their real estate on Horseshoe Lake. The Bloomers argue their real estate is a single-family home, not a resort, and they therefore do not need a special exception permit in order to rent the real estate. They also argue there was insufficient evidence to determine that their real estate was a resort. We disagree and affirm the order.

BACKGROUND

¶2 Located on the real estate at issue is a two-story, three-bedroom, three-bathroom home, which the Bloomers refer to as “Lake Lodge Rentals.” The Lodge is located within the “General Purpose District”² as designated by the Polk County Shoreland Protection Zoning Ordinance. POLK COUNTY, WIS., SHORELAND PROTECTION ZONING ORDINANCE art. 8(B) (2002). The Ordinance allows single family homes to be rented but requires a special exception permit for the operation of a resort. ORD. art. 8(C)(2), (D).

¶3 In June 2005, the Bloomers applied for a public facility permit through the health and human services department. Upon completion of a hotel-motel/tourist rooming house inspection report, a public facility permit was issued.

¶4 The Bloomers rented the Lodge on a weekly basis. They advertised the Lodge on a website, through brochures, and by word-of-mouth. The informational sheets provided to renters list many recreational activities available at the Lodge including fishing, swimming, and sledding. The advertisements also

² The General Purpose District is defined as “all shorelands subject to regulations under [POLK COUNTY, WIS., SHORELAND PROTECTION ZONING ORDINANCE art. 5 (2002)], which are not designated as wetland areas on the shoreland zoning maps in Article 6.”

stated, “We have a paddle boat for your leisure and a fishing boat and canoe to rent. Our manager also has sleds and cross country skis. For more information on the boat and canoe rental as well as the boot sizes for skiing please ask our manager.”

¶5 The Bloomers applied to the Polk County Board of Adjustment for a special exception permit, which would have allowed them to run the Lodge as a resort. The board denied their request. The Bloomers petitioned the circuit court for review of the board’s decision. The circuit court upheld the board’s decision.

¶6 Despite the circuit court’s decision, the Bloomers continued to rent the Lodge on a weekly basis. Polk County then initiated a forfeiture and injunction action against the Bloomers. The County dropped its claim for any forfeitures and the circuit court issued an order granting injunctive relief. The injunctive relief prohibited the Bloomers from advertising the Lodge or accepting any new booking for the rental of the Lodge. The injunction also provides that if an appellate decision is issued before any summer bookings currently in place, those bookings must be cancelled.

DISCUSSION

¶7 Both statutes and ordinances are interpreted using the same methodology. *State v. Kenosha County Bd. of Adjust.*, 218 Wis. 2d 396, 412, 577 N.W.2d 813 (1998). Statutory interpretation is a question of law we review without deference. *World Wide Prosthetic Supply, Inc. v. Mikulsky*, 2002 WI 26, ¶8, 251 Wis. 2d 45, 640 N.W.2d 764. We begin with the language of the statute or ordinance. *See State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110. That language is given its common, ordinary, and accepted meaning. *Id.* We interpret language in the context in

which it is used, in relation to the language of surrounding or closely related statutes or ordinances, and in a way that avoids absurd results. *See id.*

¶8 The ordinance allows “single-family dwellings for owner occupancy, rent or lease.” ORD. art. 8(C)(2). However, the ordinance requires a special exception permit for the operation of “[h]otels, resorts, condominiums, including two or more single-family dwellings for rent or lease, motels, restaurants, dinner clubs, taverns, private clubs, power generating stations, churches and cemeteries.” ORD. art. 8(D). The Bloomers argue the Lodge is a single-family home and there was not sufficient evidence to show that it is a resort.

¶9 The word resort is not defined in the ordinance, and we therefore use its common meaning. *See Kalal*, 271 Wis. 2d 633, ¶45. Resort is defined as “a place to which one betakes himself or persons go habitually ... a popular place of entertainment or recreation.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1934 (unabr. 1993). The exhibits make it clear that the Bloomers advertise the Lodge as a place of recreation. The advertisements list a variety of recreational activities available at the Lodge. Further, the informational materials the Bloomers provided to their renters state, “We have a paddle boat for your leisure and a fishing boat and canoe to rent. Our manager also has sleds and cross country skis. For more information on the boat and canoe rental as well as the boot sizes for skiing please ask our manager.” In addition, the Lodge’s brochure proclaims:

Each room has been designed with a strong sense of the outdoors and your comfort and convenience in mind.

While our Lodge allows you to enjoy the pleasures of the outdoors, it also provides the necessities of home. Your stay comes complete with satellite TV, stereo, VCR, a fully

furnished kitchen, and linens for eleven friends and family members.

¶10 These exhibits establish that the Lodge was not used as a single-family home but, rather, as a “place of entertainment or recreation.” Therefore, there was sufficient evidence to determine that the Lodge is a resort.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

