

Natural Gas Case Law Brief

Huntley & Huntley, Inc. v. Borough Council of Oakmont

No. 30 WAP 2008; 964 A.2d 855 (Pa. Feb. 19, 2009)

Summary prepared by Michael Magee on June 15, 2010

The Oakmont Borough Council (Council) appealed from an adverse verdict in the Commonwealth Court, where it was determined that the restrictions Council placed on Huntley & Huntley (Huntley), an engineering company, were superseded and voided by the Pennsylvania Oil and Gas Act. The Oil and Gas Act provides the following:

Except with respect to ordinances adopted pursuant to the...Municipalities Planning Code, and the ...Flood Plain Management Act, all local ordinances and enactments purporting to regulate oil and gas well operations regulated by this act are hereby superseded. No ordinances or enactments adopted pursuant to the aforementioned acts shall contain provisions which impose conditions, requirements, or limitations on the same features of oil and gas well operations regulated by this act or that accomplish the same purposes as set forth in this act.
58 PA. STAT. § 601.602

Huntley sought to drill for natural gas on lands with R-1 zone classifications. Council's ordinance prevented business operations within R-1 zones. Simply put, the zoning ordinance empowered Council to determine where gas wells could be placed. A conditional use exception existed for the extraction of minerals. The ordinance did not define "minerals." Huntley argued that even if the Court determined that the Council's ordinance was not superseded, natural gas is a "mineral" which allows Huntley to receive a conditional use permit. Council disagreed.

There were two issues before the Court: (1) *was Council's ordinance superseded by Pennsylvania's Oil and Gas Act?*, and if not, (2) *did the term "mineral" as used in the ordinance include natural gas?*

Council's ordinance was not superseded by the Pennsylvania Oil and Gas Act. Under the Oil and Gas Act, zoning ordinances adopted pursuant to the Municipalities Planning Code (MPC) were valid so long as they did not relate to features addressed by the Oil and Gas Act and did not purport to accomplish the same purposes as the Oil and Gas Act. The Court determined that the zoning ordinance's influence over the location of gas wells was not superseded because

the location of a well is not a “feature” of that well. Features include the technical details of a well, such as how it was created, how it functions, how it is maintained, and how it was or will be destroyed, but do not include the well’s location.

The Court also determined that Council’s zoning ordinance did not step on the purposes of the Oil and Gas Act. The Court looked to a similar case in Colorado for support:

While the governmental interests involved in oil and gas development and in land-use control at times may overlap, the core interests in these legitimate governmental functions are quite distinct. The state’s interest in oil and gas development is centered primarily on the efficient production and utilization of the natural resources in the state. A county’s interest in land-use control, in contrast, is one of orderly development and use of land in a manner consistent with local demographic and environmental concerns. *Bd. of County Comm’rs of La Plata County v. Bowen/Edwards Assocs., Inc.*, 830 P.2d 1045, 1057 (Colo. 1992).

According to the Court, if the state had wanted to supersede all local ordinances with effects on the oil and gas industry, it could have done so. Instead, the state maintained an MPC-based exception. The Court concluded from this that the zoning ordinance, duly created under the MPC, had a separate purpose from that of the Oil and Gas Act.

The Court determined that “*Mineral*,” as used in Council’s zoning ordinance, included *natural gas*. The ordinance did not define the term, but the MPC did, and its definition included natural gas.

The Court allowed Council’s zoning ordinance to stand, but Huntley’s natural gas operation was allowable as a conditional use under the R-1 “mineral” exception.



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