STATE OF MICHIGAN

COURT OF APPEALS

MARTIN TITTLE,

Plaintiff-Appellant,

v

CITY OF ANN ARBOR,

Defendant-Appellee.

UNPUBLISHED
September 20, 2002

No. 229020
Washtenaw Circuit Court
LC No. 99-10293 CZ

Before: Holbrook, Jr., P.J., and Zahra and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's denial of his claim for declaratory relief. Plaintiff had sought a declaratory judgment that a zoning ordinance was invalid because defendant failed to follow the statutorily mandated procedures, MCL 125.584, in enacting the ordinance. We affirm.

The gravamen of plaintiff's challenge to the validity of the zoning ordinance[1] is that defendant failed to comply with MCL 125.584 when it enacted the ordinance. Plaintiff's trial brief specifically contended that the zoning ordinance was not validly enacted because (i) defendant failed to hold a public hearing pursuant to MCL 125.584(1); and (ii) defendant's planning commission failed to submit a report to the city council pursuant to MCL 125.584(2). The trial court found[2] that plaintiff failed to prove by a preponderance of the evidence that defendant did not follow the enacting procedures of MCL 125.584. Alternatively, the trial court ruled that plaintiff was estopped from challenging the validity of the zoning ordinance because it was enacted in 1958.

On appeal, plaintiff challenges the trial court's denial of his request for declaratory judgment. We have opined that "[w]here a zoning ordinance is not challenged until several years

[1] We agree with plaintiff's assertion that the ordinance was a zoning ordinance, rather than a regulatory ordinance. However, it appears that the trial court treated the ordinance as a zoning ordinance; accordingly, plaintiff's limited contention of error on this point is moot. See *Jackson v Thompson-McCully Co, LLC*, 239 Mich App 482, 493; 608 NW2d 531 (2000).

[2] The parties stipulated to a bench trial on the briefs.

after its enactment, a challenge on the ground that the ordinance was improperly enacted is precluded on public policy grounds." *Jackson, supra* at 493. Here, there is no dispute that the zoning ordinance at issue was enacted in 1958. There is also no dispute that the most recent amendment was in 1992. In light of the many years that have elapsed between the original enactment of the zoning ordinance, as well as the relatively minor amendments to the ordinance after that date, we conclude that plaintiff's challenge to the enactment of the zoning ordinance is precluded on public policy grounds. *Id.* Consequently, the trial court did not err in denying plaintiff's request for declaratory judgment.[3]

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Brian K. Zahra
/s/ Donald S. Owens

[3] Although the trial court characterized this issue as one of estoppel, we may affirm where the trial court reaches the right result, but for the wrong reason. *People v Jory*, 443 Mich 403, 425; 505 NW2d 228 (1993).