IN THE COURT OF APPEALS OF IOWA

No. 8-865 / 07-1430
Filed November 13, 2008

PAT ROOFF, d/b/a PAT'S AUTO,
Plaintiff-Appellant,

vs.

CITY OF WATERLOO,
Defendant-Appellee.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clark, Judge.

The plaintiff-appellant appeals from the district court order dismissing his petition for writ of certiorari that alleged the Waterloo city council acted illegally in denying his application for a license to operate an automobile recycling yard. **AFFIRMED.**

Michael Pederson, Waterloo, for appellant.

David Zellhoefer of Zellhoefer Law Office, Waterloo, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

SACKETT, C.J.

The plaintiff-appellant appeals from the district court order dismissing his petition for writ of certiorari that alleged the Waterloo city council acted illegally in denying his application for a license to operate an automobile recycling yard. He contends the court erred in holding (1) that the certiorari action was moot, and (2) that the city has unfettered discretion to grant or withhold licenses to operate legal businesses. We affirm.

I. BACKGROUND

This case has a convoluted and contentious background, most of which is not relevant to the appeal before us. Waterloo city ordinances set forth the requirement that a recycling yard have a license and detail the annual license application procedures and requirements. In 2004 the plaintiff filed applications for the three locations in which he operates Pat's Auto Salvage. Following inspection of the locations by city departments, the city council considered the recommendations to approve the application for one location and disapprove the applications for two locations. The plaintiff appeared at the meeting and spoke to the city council. The council then accepted the recommendations as made. It sent the plaintiff a notice that it denied his applications for two salvage yards that were not in compliance with city zoning ordinances. The letter also notified the plaintiff that the city would reinspect the properties a month later and, if compliant then, would put the applications back on the agenda for issuance of the licenses. When inspectors arrived, the plaintiff denied them access, stating he had appealed the council's action.

After a hearing on the city's motion to dismiss the appeal, the court refused to dismiss the appeal, but ordered the plaintiff to re-cast the pleadings because an appeal under Iowa Code chapter 17A is only available to challenge the action of state agencies. The plaintiff filed a petition for writ of certiorari challenging the legality of the council's action. The parties fought over discovery for more than two years. The court held a hearing in May of 2007 on the plaintiff's motion for sanctions on discovery and the city's motion to dismiss on mootness grounds. The court first considered the mootness issue and determined this case fell within the exception to the mootness doctrine. The court analyzed what process the plaintiff was due to protect whatever property interest he had in receiving a license to operate his business. The court then concluded "the quality and nature of the hearing provided by the city was sufficient" to satisfy the requirements of due process. The court overruled the city's motion to dismiss; sustained the plaintiff's motion for sanctions, finding the city in default and awarding attorney fees and costs; and dismissed the plaintiff's petition for writ of certiorari, finding the city did not act illegally.

II. SCOPE OF REVIEW

Neither party complied with Iowa Rule of Appellate Procedure 6.14(1)(*f*) by discussing the scope or standard of appellate review for each issue in their briefs or by setting forth their argument "in separately numbered divisions corresponding to the separately stated issues." Appeals from a judgment of the district court in a certiorari action are governed by the rules for appeals in

"ordinary actions." Iowa R. Civ. P. 1.412. Our review is for correction of errors at law. Iowa R. App. P. 6.4.

III. DISCUSSION

Mootness. The plaintiff contends the district court erred in holding his certiorari action is moot. This claim is without merit because the court determined this case falls within the exception to mootness for "issues of broad public importance likely to recur." *See State v. Hernandez-Lopez*, 639 N.W.2d 226, 234 (Iowa 2002). We affirm the district court on this issue.

Certiorari. The plaintiff contends the district court erred in dismissing his petition for writ of certiorari. He argues many of the fact findings of the court and its conclusions are in error. He contends the case should be remanded for a hearing. We conclude the plaintiff's arguments are without merit. The district court properly determined the city had not acted illegally in denying the plaintiff's application for a license. He was present at the city council meeting where the license applications for his and other businesses were decided. He spoke to the council, but provided no evidence he was in compliance with the applicable city ordinances or zoning laws. After the denial of his application, he was given a month to remedy the problems so his application could be reconsidered, but he did not allow the city to reinspect the businesses to determine if the problems had been remedied. Because this was a denial of a license application rather than a license revocation, the plaintiff's citation to the city ordinance relating to license revocations is inapposite. The city's process for considering annual license applications did not violate the plaintiff's due process rights. He had

actual notice[1] of the city council meeting and was given an opportunity to be heard.

The evidence before us supports the district court's conclusions that the city did not act illegally and that the plaintiff did not dispute the violations occurred. We affirm the district court on this issue.

We have considered all the claims properly presented for our review and conclude those not specifically addressed above are either disposed of by our resolution of the plaintiff's enumerated claims or are without merit.

AFFIRMED.

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[1] Actual notice, even if written notice were required, is sufficient in the circumstances before us. *See In re Estate of Falck*, 672 N.W.2d 785, 792 (Iowa 2003).