SJC-12901

ALEXANDER STYLLER vs. ZONING BOARD OF APPEALS OF LYNNFIELD & another.[1]

Suffolk. October 9, 2020. - June 7, 2021.

Present: Budd, C.J., Gaziano, Lowy, Cypher, & Kafker, JJ.

Real Property, Lease. Zoning, By-law, Permitted use, Lodging house, Person aggrieved. Jurisdiction, Justiciable question, Land Court. Land Court, Jurisdiction. Practice, Civil, Standing, Substitution, Moot case. Moot Question. Words, "Tourist home."

Civil action commenced in the Land Court Department on December 23, 2016.

The case was heard by Keith C. Long, J., and a motion to amend the findings was considered by him.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

Lester E. Riordan, III, for the plaintiff.
Thomas A. Mullen for the defendants.

[1] Building inspector of Lynnfield.

BUDD, C.J. General Laws c. 40A, § 6, generally protects property uses that were lawfully in existence prior to newly adopted restrictive zoning regulations.[2] In this case, the plaintiff, Alexander Styller,[3] contends that use of his family home for short-term rentals constituted a prior nonconforming use that is exempt from a zoning bylaw of the town of Lynnfield (town) that, as amended in 2016, expressly forbids such rentals in single-residence zoning districts. He asks the court to overturn the Land Court judge's decision and rule that short-term rentals were permissible prior to the bylaw amendments. We decline to do so.

1. Overview of town bylaw governing single-residence district uses. Section 4 of the town's zoning bylaw prohibits any property use that is not specifically authorized.. During the relevant period, section 4.1 of the bylaw laid out permissible principal, additional, and accessory uses of property located in single-residence districts. Insofar as are relevant here, principal uses included use as a "[o]ne family

[2] "[A] zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun . . . before the first publication of notice of the public hearing on such ordinance or by-law required by [§ 5]." G. L. c. 40A, § 6.

[3] The plaintiff sold the property after the trial in the Land Court, but before judgment entered. We address the appeal's justiciability infra. For convenience, we continue to refer to the plaintiff as the owner of the property.

detached house, with not more than one such house located on any lot." With the approval of the zoning board of appeals of Lynnfield (board), certain "additional uses" were permitted, including use as a "[t]ourist home, boarding or lodging house," pursuant to section 4.1.1(3) of the bylaw. Finally, section 5 of the bylaw permitted "accessory use[s]" of the property, as of right, defined as "subordinate" uses:

> "1. Whose use is customary in connection with the principal building,[4] . . . and
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> "2. Whose use is clearly incidental to the use of the principal building, . . . and
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> "3. Which is located on the same lot with the principal building . . . or on a lot adjacent to such lot, if in the same ownership, and
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> "4. Which does not constitute, in effect a conversion of the principal use of the premises to one not permitted."

Effective October 17, 2016, the bylaw was amended to prohibit explicitly any short-term rentals of homes.[5]

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[4] Section 5.1(5) of the bylaw "specifically declared" the "regular renting of rooms or the furnishing of table board in a dwelling by prearrangement to not more than five . . . persons" to be a customary accessory use..

[5] The bylaw was amended as follows: additional language was added to section 4.1(1) to allow residential use as a one family detached house "provided that no such property shall be leased or rented for a period of thirty (30) days or less unless specifically authorized by the Board of Appeals"; section 4.1.1(3) deleted language that had allowed "additional" use as a "[t]ourist home, boarding or lodging house" with authorization by the board; and section 5.1(5) was amended to define "customary" use to include "[t]he regular renting of rooms or the furnishing of table board in a dwelling by prearrangement to

2. Factual and procedural history. The material facts are largely undisputed.[6] The property at issue consists of a five-bedroom single-family house, on three acres of land, in a single-residence zoning district. The Styller family lived on the premises. Beginning in July 2015, the plaintiff offered the premises for short-term rentals through various Internet-based platforms. Between July 16, 2015, and May 21, 2017, he rented the premises thirteen times, for a total of sixty-five days: four times in 2015, seven times in 2016, and two times in 2017. Each rental was between two and fifteen days in duration; most were for five days or less.

Most frequently, the rented premises were used for family reunions, but they also were used for a college reunion, a corporate board meeting, business retreats, and "photo shoots." Renters were given exclusive possession of the property during

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not more than five . . . persons, provided that no such renting shall be for a period of thirty (30) days or less" (emphasis added). The amended sections of the bylaw are not at issue in this appeal.

[6] The plaintiff also has appealed from the denial of his motion to amend certain language contained in the Land Court judge's findings. That language does not, however, factor into our analysis. We therefore observe only that, regardless of how the Land Court judge characterized the plaintiff's rental activity, the parties' stipulation of facts states that, as of the date of the building inspector's order, the plaintiff had rented the property a total of eight times, for forty-four days in total. Whether the rentals were "frequent" or "occasional," as those words may be used in other contexts, was not at issue either before the Land Court or this court.

the applicable rental period; the Styller family stayed elsewhere. Although each rental was arranged by a single booking guest, ten of the plaintiff's thirteen rentals had a group of six or more guests (including the booking guest).

In May 2016, a shooting incident during a weekend rental left an individual dead at the plaintiff's property.[7] Shortly thereafter, the building inspector of Lynnfield (building inspector) notified the plaintiff that use of his home for short-term rentals violated the town's zoning bylaw. More specifically, according to the building inspector, the plaintiff's short-term rentals of his property constituted either use as a hotel (an impermissible "additional" use in a single-residence district), or use as a lodging or rooming[8] house without the necessary prior authorization, pursuant to section 4.1.1(3) of the bylaw. The building inspector therefore ordered the plaintiff to cease and desist offering the premises for rent.

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[7] As described in more detail in Heath-Latson v. Styller, 487 Mass. , (2021), Styller rented the premises to an individual who was part of a group of six overnight guests, purportedly for the purpose of hosting a college reunion. More than one hundred people came to the premises for the event, and one person was shot and killed. See id. at . In that case, we considered Styller's alleged duty to the victim.

[8] The town's bylaw does not reference "rooming house" use; rather, it refers to "boarding or lodging" house use, in section 4.1.1.

The plaintiff appealed from the building inspector's order to the board. See G. L. c. 40A, § 8. He requested that the board make specific factual findings that the short-term rentals did not constitute use of the premises either as a hotel or as a lodging or rooming house. While the plaintiff's appeal was pending, the town amended its bylaw expressly to prohibit short-term rentals in single-resident zoning districts, without prior authorization. See note 5, supra. After a public hearing, the board voted to "uphold the decision of the [b]uilding [i]nspector to prohibit rentals of [thirty] days or less in any Single Residence District."[9] The board did not, however, address the building inspector's characterization of the plaintiff's use of the property as a "hotel" or "lodging or rooming house."

The plaintiff thereafter filed a complaint in the Land Court, seeking review of the board's ruling. See G. L. c. 40A, § 17. After a jury-waived trial on stipulated facts and certain additional evidence, the Land Court judge concluded that the plaintiff's short-term rental use of the property constituted an additional use because it was functionally equivalent to use as

[9] Although the building inspector's order barred all rental use, at the hearing, the town suggested that it was the "transient" use of the property (defined in the International Building Code as rentals of thirty days or less) that was prohibited. The board thereafter voted to "uphold the decision of the [b]uilding [i]nspector to prohibit rentals of [thirty] days or less in any Single Residence District."

a "tourist home" or "lodging house" under section 4.1.1(3) of the bylaw. Because the plaintiff did not have the board's authorization for that use, however, the judge concluded that the plaintiff's short-term rental use of the premises violated the bylaw as it existed when the plaintiff began such rentals. He thus affirmed the board's decision.[10]

The plaintiff appealed, and we transferred the appeal to this court on our own motion. We now affirm the Land Court's decision, albeit on different grounds.

3. Discussion. a. Justiciability. As stated supra, the plaintiff sold the property after the trial in the Land Court, but before judgment entered. We therefore begin with the question whether the sale of the property affects the justiciability of the action where neither intervention, joinder, nor substitution of the transferee as a party was sought. See Mass. R. Civ. P. 24, 365 Mass. 769 (1974); Mass. R. Civ. P. 25 (c), 365 Mass. 771 (1974).

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[10] The judge additionally determined that the plaintiff's short-term rental use did not meet the definition of "accessory" use, see note 16, infra, and, further, that short-term rentals arranged by means of Internet platforms do not constitute a preexisting nonconforming use, because the "ever-changing technologies" used to effectuate the rentals produce "materially-different uses" over time. Although the later point is not pressed on appeal, we observe that the means by which the short-term rentals were effectuated is immaterial from a zoning perspective.

i. Standing. Standing to challenge a decision of the board, pursuant to G. L. c. 40A, § 17, is a prerequisite to the Land Court's exercise of jurisdiction. See, e.g., Marotta v. Board of Appeals of Revere, 336 Mass. 199, 202-203 (1957) (trial court "had no jurisdiction to consider the case unless an appeal . . . was taken by an aggrieved person"); Southwick v. Planning Bd. of Plymouth, 72 Mass. App. Ct. 266, 268 (2008) ("standing is an issue of subject matter jurisdiction only in the sense that it is a criterion that must be met in order for the court to exercise jurisdiction, when the court otherwise is competent to decide the case"). The town now posits, however, that the plaintiff lacks standing to maintain the appeal because, having sold the property, he no longer has an interest within the area of concern protected under the zoning laws, G. L. c. 40A, §§ 1-17.

The argument is misplaced. Standing, for jurisdictional purposes, is tested at the time an action commences. See Lujan v. Defenders of Wildlife, 504 U.S. 555, 570 n.5 (1992) (plurality opinion) ("standing is to be determined as of the commencement of suit"). There is no dispute that, at the time the litigation commenced in the Land Court, the plaintiff was the owner of the property and that he was "a person aggrieved" by the board's decision. See Marashlian v. Zoning Bd. of Appeals of Newburyport, 421 Mass. 719, 721 (1996) ("Only a

'person aggrieved' may challenge a decision of a zoning board of appeals"). Once jurisdiction attached, the Land Court retained jurisdiction over the matter despite the sale of the property. See O'Dea v. J.A.L., Inc., 30 Mass. App. Ct. 449, 453 (1991) ("court is not ousted of jurisdiction by subsequent events -- jurisdiction once attached is not impaired by what happens later"). See also Saint Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 293 (1938) (same); Mollan v. Torrance, 22 U.S. (9 Wheat.) 537, 539 (1824) (same).

Where, as here, an interest has transferred during the pendency of an action, the rules of civil procedure provide:

> "In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party."

Mass. R. Civ. P. 25 (c).[11,12] See Williams v. Ely, 423 Mass. 467, 478 (1996) (where plaintiff's claim was assigned during pendency

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[11] Rule 30 of the Massachusetts Rules of Appellate Procedure, as appearing in 481 Mass. 1661 (2019), governs the substitution of parties in the appellate courts. "Given their identity of subject matter and similarity in language, [Mass. R. Civ. P. 25] and [Mass. R. A. P. 30] should be read in concert." Lee v. Mt. Ivy Press, L.P., 63 Mass. App. Ct. 538, 556 n.35 (2005). See Silberman v. Miami Dade Transit, 927 F.3d 1123, 1137-1138 (11th Cir. 2019).

[12] Rule 25 (c) of the Massachusetts Rules of Civil Procedure applies where, as here, the original party had standing to pursue the litigation. Contrast Phone Recovery Servs., LLC v. Verizon of New England, Inc., 480 Mass. 224, 230 n.8 (2018) (where original party did not have standing, complaint must be

of litigation, no error in failing to add assignee as plaintiff; judgment binding on original party's successor in interest); Lee v. Mt. Ivy Press, L.P., 63 Mass. App. Ct. 538, 557-558 (2005). The "rule expressly permits parties to continue in an action, even if they do not remain the real party in interest, as long as the cause of action itself survives the transfer to the new party." ELCA Enters., Inc. v. Sisco Equip. Rental & Sales, Inc., 53 F.3d 186, 191 (9th Cir. 1995) (interpreting Fed. R. Civ. P. 25[c], which is substantially identical to Mass. R. Civ. P. 25 [c]). See In re Covington Grain Co., 638 F.2d 1362, 1364 (5th Cir. 1981) ("Rule 25[c] is not designed to create new relationships among parties to a suit but is designed to allow the [original] action to continue unabated when an interest in the lawsuit changes hands"). See also Shapiro v. McCarthy, 279 Mass. 425, 428, 430 (1932) ("The cause of action exists in legal contemplation apart from those persons who may be parties to it").

Under the rule, the original party may continue the action unless the transferee is substituted, on motion. Hilbrands v. Far East Trading Co., 509 F.2d 1321, 1323 (9th Cir. 1975). Indeed,

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dismissed; new complaint from party with standing would not be problematic); Rafferty v. Sancta Maria Hosp., 5 Mass. App. Ct. 624, 626-627 (1977) (substitution or joinder of party with standing prior to judgment permissible).

> "[t]he most significant feature of Rule 25(c) is that it does not require that anything be done after an interest has been transferred. The action may be continued by or against the original party, and the judgment will be binding on his successor in interest even though the successor is not named. An order of joinder is merely a discretionary determination by the trial court that the transferee's presence would facilitate the conduct of the litigation." (Footnotes omitted.)

7C C.A. Wright, A.R. Miller & M.K. Kane, Federal Practice and Procedure § 1958 (3d ed. 2021). See Williams, 423 Mass. at 478, citing Luxliner P.L. Export Co. v. RDI/Luxliner, Inc., 13 F.3d 69, 71 (3d Cir. 1993) (rule 25 [c] does not require court or party to take any action after interest transferred). In this case, the Land Court's docket indicates that no motion was filed to join or substitute the current owner of the premises. The Land Court judge retained jurisdiction, after being advised of the transfer.

Although rule 25 (c) is a procedural rule, we recognize that survival of a right of action after a property transfer is a matter of substantive law. See Citibank v. Grupo Cupey, Inc., 382 F.3d 29, 32-33 (1st Cir. 2004); Hilbrands, 509 F.2d at 1323. There is no doubt that a right of action challenging the legality of the property's prior use as a short-term rental survives the sale of property. See Revere v. Rowe Contr. Co., 362 Mass. 884, 885 (1972); Shapiro, 279 Mass. at 430. Because such use of land is not "indissolubly linked with a particular" party, Shapiro, supra, the lawsuit challenging that use may

continue unabated when the property changes hands,[13] see In re Bernal, 207 F.3d 595, 598 (9th Cir. 2000). See also Burka v. Aetna Life Ins. Co., 87 F.3d 478, 480, 482 (D.C. Cir. 1996) (property purchaser properly substituted as defendant on remand).

ii. Mootness. Although the plaintiff's ownership of the premises accorded him standing as an aggrieved person to commence suit in the Land Court, his subsequent transfer of the property raises a separate issue as to whether the case has become moot, on the ground that he lost a personal stake in its outcome. See Taylor v. Board of Appeals of Lexington, 451 Mass. 270, 274 (2008), quoting Attorney Gen. v. Commissioner of Ins., 442 Mass. 793, 810 (2004) ("Litigation ordinarily is considered moot when the party claiming to be aggrieved ceases to have a personal stake in its outcome"). See also Uzuegbunam v. Preczewski, 141 S. Ct. 792, 796 (2021) ("doctrine of standing generally assesses whether that [personal] interest exists at the outset, while the doctrine of mootness considers whether it exists throughout the proceedings"); Davis v. Federal Election Comm'n, 554 U.S. 724, 732-734 (2008); Slice of Life, LLC v.

[13] This is, of course, not true of all type of actions. See, e.g., Billings v. GTFM, LLC, 449 Mass. 281, 291 & n.21 (2007) (with certain exceptions, company merger destroys derivative standing of former shareholders to institute or continue to pursue derivative claims on behalf of former company; referring to "continuing ownership requirement").

Hamilton Township Zoning Hearing Bd., 652 Pa. 224, 242 (2019) (following property sale, declining to dismiss as moot appeal challenging zoning ordinance's application to short-term rentals).

Unlike standing, "mootness [is] a factor affecting [the court's] discretion, not its power," to decide a case. Rosado v. Wyman, 397 U.S. 397, 403 (1970). See Norwood Hosp. v. Munoz, 409 Mass. 116, 121 (1991) ("general rule is that courts ordinarily will not decide moot questions"). We have exercised our discretion to answer moot questions in circumstances

> "where the issue was one of public importance, where it was fully argued on both sides, where the question was certain, or at least very likely, to arise again in similar factual circumstances, and especially where appellate review could not be obtained before the recurring question would again be moot."

Id., quoting Lockhart v. Attorney Gen., 390 Mass. 780, 783 (1984).

Here, the plaintiff argues that the appeal is not moot because he continues to have a personal stake in its outcome. In particular, he contends that whether his prior use of the property violated the town's bylaw affects his legal rights in connection with the companion case, Heath-Latson v. Styller, 487 Mass. (2021), as well as with respect to various insurance coverage issues, see, e.g., Springfield Preservation Trust, Inc. v. Springfield Library & Museums Ass'n, Inc., 447 Mass. 408,

417-418 (2006) (demolition of structure did not eliminate controversy between parties because dispute as to validity of ordinance and its application to other, after-acquired property remained). Because the right to continue a lawful nonconforming use runs with the land, Rowe Contr. Co., 362 Mass. at 885, he also argues that the issues raised in the appeal remain live, see Hubrite Informal Frocks, Inc. v. Kramer, 297 Mass. 530, 535-536 (1937) (where "whole case" may not have become moot, case remanded to trial court for further proceedings).

Regardless of the strength of the plaintiff's continuing personal interest in the case, we view the viability of short-term rental use of property in the context of existing zoning regulations as one of public importance, in the sense that it raises "an important public question whose resolution will affect more persons than the parties to the case" and that "is primarily a matter of statutory [or, in this case, zoning bylaw] interpretation, not dependent on the facts of the particular case." Lahey Clinic Found., Inc. v. Health Facilities Appeals Bd., 376 Mass. 359, 372 (1978). See Slice of Life, LLC, 652 Pa. at 242. The property sale occurred after trial in the Land Court, the Land Court entered judgment after being informed of the sale, and the appeal has been fully briefed and argued to us. Because we transferred this case to consider the issue, in the circumstances, we think it appropriate to express our

opinion on the merits.[14] See Grace v. Brookline, 379 Mass. 43, 48 n.11 (1979); Karchmar v. Worcester, 364 Mass. 124, 136 (1973).

b. Analysis. The plaintiff principally argues that his use of the property for occasional short-term rentals[15] was not an unauthorized "additional use," as the Land Court judge reasoned, but was instead a permissible principal use as a one family detached house, under section 4.1(1) of the bylaw. He emphasizes that the town's bylaw, prior to its amendment in 2016, did not prohibit homes in single-residence districts from being rented (regardless of duration). For its part, the town contends that its bylaw did not expressly authorize short-term rentals in a single-family district and, therefore, the plaintiff's use of the property in that manner violated section 4 of the bylaw, as amended through October 19, 2015 ("no land, building, structure or part thereof shall be used for any

[14] Courts decline to decide moot cases for reasons including that "(a) only factually concrete disputes are capable of resolution through the adversary process, (b) it is feared that the parties will not adequately represent positions in which they no longer have a personal stake, (c) the adjudication of hypothetical disputes would encroach on the legislative domain, and (d) judicial economy requires that insubstantial controversies not be litigated." Wolf v. Commissioner of Pub. Welfare, 367 Mass. 293, 298 (1975). For the reasons stated, those concerns are not at issue here.

[15] See note 6, supra.

purpose or in any manner other than for one or more of the uses specifically permitted").

We "accord deference to a local board's reasonable interpretation of its own zoning bylaw," Shirley Wayside Ltd. Partnership v. Board of Appeals of Shirley, 461 Mass. 469, 475 (2012), adhering to the traditional canons of statutory construction, Doherty v. Planning Bd. of Scituate, 467 Mass. 560, 567 (2014), quoting Shirley Wayside Ltd. Partnership, supra (reviewing "judge's determinations of law, including interpretations of zoning bylaws, de novo"). Although we agree with the plaintiff that the short-term rental use was not an unauthorized "additional" use, because the plaintiff's use of his property for short-term rentals was not specifically permitted under the bylaw, we conclude that it was not a specifically permitted principal use either.[16]

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[16] The plaintiff does not argue on appeal that his short-term rental use qualified as a lawful "accessory use" under section 5 of the bylaw, quoted supra. We do not, therefore, address the accessory use provision, except to observe that the plaintiff's use would appear to fail three of the four conditions precedent. He did not, for example, show that short-term rental use was customary in the zoning district, nor did he demonstrate that the use qualified as the "regular renting of rooms or the furnishing of table board in a dwelling by prearrangement to not more than five . . . persons" under section 5.1(5). As the Land Court judge observed, the short-term rental use was not "incidental" to the use of the principal building, under section 5(2). See Henry v. Board of Appeals of Dunstable, 418 Mass. 841, 845 (1994). Finally, the plaintiff's rental of the property for event use (rather than for residential purposes) effectively converted the principal use of

i. Additional use. Because the Land Court judge focused on "additional" uses, that is where we begin. The judge concluded that the plaintiff's use of the property was an unauthorized "additional" use. As stated previously, prior to its amendment, section 4.1.1(3) of the town's bylaw allowed certain "additional" uses of property in single-residence zoning districts, including as a "[t]ourist home, boarding or lodging house," but only with the board's authorization. Referencing the State building code, see G. L. c. 140, § 22, and a dictionary definition, respectively, the Land Court judge reasoned that when the plaintiff's property was rented to four or more people, it was used as a "lodging house," and when it was rented to "persons who travel for pleasure," it was used as a "tourist home." The judge went on to conclude that, either way, the short-term rental use violated the bylaw, because such use required a permit that the plaintiff admittedly did not have. We agree with the judge's conclusion that the plaintiff did not have authorization for an "additional use"; we take a different view, however, whether that use qualified as an additional use in any case.

A. Lodging house. Regardless of the number of persons to whom the plaintiff's property was let, its use cannot be

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the premises during the rental period to one not permitted, i.e., a commercial use, as prohibited by section 5(4).

categorized as lodging house use. A "lodging house" is a "house where lodgings are let to four or more persons not within second degree of kindred to the person conducting it." G. L. c. 140, § 22. See Worcester v. Bonaventura, 56 Mass. App. Ct. 166, 169 (2002). In a lodging house operation, "[a] lodger occupies only a specific room or rooms within a house or apartment that is itself owned or rented by someone else, where the owner, or another leasing from the owner, is the primary occupant of the property." Worcester v. College Hill Props., LLC, 465 Mass. 134, 140 (2013). A degree of permanence is implied in the arrangement, "as distinguished form the transiency of hotel and motel accommodations." Selvetti v. Building Inspector of Revere, 353 Mass. 645, 647 (1968), S.C., 356 Mass. 720 (1969). Where, as here, the renters were given exclusive possession of the entire premises, and the rental periods were short in duration, there is no basis to conclude that the plaintiff was operating a lodging house.

B. Tourist home. The Land Court judge additionally determined that the plaintiff operated an unpermitted "tourist home" when he rented to "persons who travel for pleasure." Although few cases reference a "tourist home," see Haverhill v. DiBurro, 337 Mass. 230, 231, 236-237 (1958), such accommodations have been described as "a house in which rooms are available for

rent to transients"[17] (citation omitted), Solem vs. Curry, Mass. Land Ct., No. 236244 (July 25, 2000). Like a "lodging house," a "tourist home" contemplates renting of rooms rather than of an entire house, and both terms imply that the owner or operator remains on the premises. See DiBurro, supra at 232 (describing tourist home as "offering three or four 'bedrooms or small suites' for rental and using the fourth for the manager's home"). Applying that analysis here, the plaintiff's short-term rentals of his home did not constitute operation of a "tourist home."

ii. One family detached house use. We agree with the plaintiff that the short-term rentals were not, as the Land Court judge reasoned, unauthorized additional uses, for purposes of section 4.1.1(3) of the bylaw. Nonetheless, we reject the plaintiff's claim that his "occasional" use of the property for short-term rentals[18] constituted a permissible primary use as a one family detached house under section 4.1(1) of the bylaw.

The plaintiff's argument is fundamentally flawed because it fails to recognize that short-term rental use of a one family

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[17] "We derive the words' usual and accepted meanings from sources presumably known to the [bylaw's] enactors, such as their use in other legal contexts and dictionary definitions" (citation omitted). Framingham Clinic, Inc. v. Zoning Bd. of Appeals of Framingham, 382 Mass. 283, 290 (1981).

[18] See note 6, supra.

home is inconsistent with the zoning purpose of the single-residence zoning district in which it is situated, i.e., to preserve the residential character of the neighborhood. See, e.g., Rogers v. Norfolk, 432 Mass. 374, 380 (2000) ("preservation of the residential character of neighborhoods is a legitimate municipal purpose to be achieved by local zoning control"). Indeed, courts have long recognized that municipalities may regulate in order to protect communities' "residential character," Euclid v. Ambler Realty Co., 272 U.S. 365, 394 (1926), and to make neighborhoods "a sanctuary for people," Belle Terre v. Boraas, 416 U.S. 1, 9 (1974).

Use of zoning regulation to foster stability and permanence is compatible with long-term property rentals because long-term inhabitants have the opportunity to "develop a sense of community and a shared commitment to the common good of that community" (citation omitted). Slice of Life, LLC, 652 Pa. at 232. Where short-term rentals are at issue, however, there is an "absence of stability and permanence of the individuals residing in those districts, [and] the goal is necessarily subverted" (quotations and citation omitted). Id.

Giving deference to the board's interpretation of the town's bylaw, see Shirley Wayside Ltd. Partnership, 461 Mass. at 475 (reviewing court "accord[s] deference to a local board's reasonable interpretation of its own zoning bylaw"), we conclude

that the board reasonably could determine that use of a "one family detached house" in a "single residence district," as defined in section 4.1(1) of the bylaw, connotes a measure of permanency that is inconsistent with more "transient" uses, cf. Commonwealth v. Jaffe, 398 Mass. 50, 57 (1986) ("permanency and cohesiveness" are "inherent in the notion of a single housekeeping unit"). A "[r]esidence" is commonly understood to mean "the place where one actually lives as distinguished from his domicile or a place of temporary sojourn." Webster's Ninth New Collegiate Dictionary 1003 (1985). A similar concept of permanency also is incorporated in the town's definition of "family," under section 2.12 of the bylaw, to include "[a]ny number of persons living and cooking together on the premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel."

Reading the two terms in context, and giving them a sensible meaning, see Selectmen of Hatfield v. Garvey, 362 Mass. 821, 826 (1973), the town "clearly and unambiguously excluded, in pertinent part, purely transient uses of property in [a residential zoning district]," Slice of Life, LLC, 652 Pa. at 891, 899. Both "family" and "residence" imply "a certain expectation of relative stability and permanence." Id., quoting Albert v. Zoning Hearing Bd. of N. Abington Township, 578 Pa. 439, 452 (2004). See Moore v. East Cleveland, 431 U.S. 494,

515-519 (1977) (Stevens, J., concurring), and cases cited (State courts generally require "that a single-family home be occupied only by a 'single housekeeping unit,'" and for "such households to remain nontransient").

4. Conclusion. For the above reasons, we conclude that the plaintiff's use of the property for short-term rentals was not a permissible use under the town's zoning bylaw, as it existed prior to its amendment in 2016.[19] Because, however, the current property owner may have an interest in this case, if within thirty days after the rescript is issued, the current owner files a motion in the Land Court to intervene or join as a plaintiff, and if such a motion is allowed, the final judgment will be vacated and further proceedings may follow. Otherwise, the Land Court's judgment, affirming the board's decision, shall be affirmed as to the result.

So ordered.

[19] We hasten to add, however, that a different result may obtain in other circumstances, depending upon, for example, the specifics of the zoning bylaw of the city or town, including what types of additional uses are permitted (if any), as well as what is considered a customary accessory use in a particular community.