

STATE OF MICHIGAN
COURT OF APPEALS

TOWNSHIP OF SHARON,

Plaintiff-Appellee,

v

FARMER BROTHERS GRAVEL COMPANY,
JIMMY D. FARMER, and JOHNNY R. FARMER,

Defendants-Appellants.

UNPUBLISHED

April 28, 2000

No. 216477

Washtenaw Circuit Court

LC No. 98-009836-CE

Before: Gribbs, P.J., and Doctoroff and T. L. Ludington*, JJ.

MEMORANDUM.

Defendants appeal as of right the order granting plaintiff's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendants have operated a gravel mine in Sharon Township for a number of years. In December 1997, plaintiff adopted an ordinance providing for the regulation and licensing of mineral extraction operations. Defendants declined to apply for a license, and plaintiff brought this action seeking to enjoin further extraction. Defendants assert that the ordinance is an unconstitutional delegation of authority to an appointed mineral license board. We disagree.

MCL 41.181(1); MSA 5.45(1) grants township boards power to adopt ordinances regulating public health, safety and general welfare, including the licensing of businesses. Township regulations enacted under the township ordinance act are not subject to judicial intervention absent abuse of discretion, excessive use of power, or error of law. *Natural Aggregates Corp v Brighton Twp*, 213 Mich App 287, 294; 539 NW2d 761 (1995). The judicial function is to determine whether a township ordinance is within the range of conferred discretionary powers, and then determine if it is reasonable. *Id.* Const 1963, art 7, § 34 requires courts to liberally construe all legislative and constitutional powers conferred upon townships. *Id.*, 295. The particular condition of township land from which natural resources are extracted is a local concern affecting the public health, safety and welfare, and gives the township authority to license and regulate such use. *Id.*, 297.

* Circuit judge, sitting on the Court of Appeals by assignment.

When a legislative body chooses to vest an administrative body with the power to regulate public conduct, the legislative body must provide adequate standards to protect the public from the exercise of uncontrolled, arbitrary power. *Id.*, 303; *West Bloomfield Hosp v Certificate of Need Bd*, 208 Mich App 393, 399; 528 NW2d 744 (1995). Plaintiff's mineral extraction ordinance provides detailed standards for the issuance of a license, and does not confer unlimited discretion to the appointed board. The ordinance does not represent an unconstitutional delegation of authority. *Natural Aggregates, supra*, 304; *Whittaker & Gooding Co v Scio Twp*, 122 Mich App 538, 554-556; 332 NW2d 527 (1983).

Affirmed.

/s/ Roman S. Gibbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington