

OPINIONS OF THE SUPREME COURT OF OHIO

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Bobersky et al., Appellants, v. City of Youngstown et al., Appellees.

[Cite as Bobersky v. Youngstown (1992), Ohio St.3d .]
Appeal dismissed as improvidently allowed.

(No. 91-1336 -- Submitted May 6, 1992 -- Decided June 10, 1992.)

Appeal from the Court of Appeals for Mahoning County,
No. 90 C.A. 52.

Green, Haines, Sgambati, Murphy & Macala Co., L.P.A., Dennis Haines, Barry Laine and David A. Bobovnyik, for appellants.

Edwin Romero, Law Director, and Cheryl L. Waite, for appellee city of Youngstown.

Richard J. Mastriana, for appellees Carl and Joann Ross.

Lee I. Fisher, Attorney General, John P. Bartley and Joan C. Weiser, urging affirmance for amicus curiae, Ohio Department of Natural Resources.

This cause is dismissed, sua sponte, as having been improvidently allowed.

The court orders that the court of appeals' opinion not be published in the Ohio Official Reports, and that it may not be cited as authority except by the parties inter se.

Sweeney, Holmes, Wright and Resnick, JJ., concur.

Moyer, C.J., Douglas and H. Brown, JJ., separately dissent.

Moyer, C.J., dissenting. Although I agree with the reasons of Justice Brown that a merit decision should be rendered in this cause, I would affirm the judgment of the court of appeals.

Herbert R. Brown, J., dissenting. This case presents significant issues of real property law. The issues presented are not easily resolved under existing law. Thus, it is not appropriate in this case to render a de facto decision by finding the appeal to have been "improvidently allowed." This case should be decided on the merits. Moreover, I think that the decision reached by the court of appeals should be reversed.

Douglas, J., concurs in the foregoing dissenting opinion.