

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Hasfeld, Inc.,	:
Appellant	:
	:
v.	:
	: No. 2250 C.D. 2007
City of Bethlehem	: Submitted: April 18, 2008

BEFORE: HONORABLE BERNARD L. MCGINLEY, Judge
 HONORABLE DAN PELLEGRINI, Judge
 HONORABLE JAMES GARDNER COLINS, Senior Judge*

OPINION NOT REPORTED

**MEMORANDUM OPINION BY
SENIOR JUDGE COLINS**

FILED: June 26, 2008

Hasfeld, Inc., at this Court’s Docket No. 2250 C.D. 2007, appeals from the November 8, 2007 order of the Court of Common Pleas of Northampton County (Trial Court) sustaining preliminary objections filed by the City of Bethlehem (City) and dismissing a complaint for declaratory judgment filed by Hasfeld, Inc.¹

* The decision in this case was reached before the conclusion of Senior Judge Colins’ service.

¹ The Trial Court’s opinion and order in this matter is identical to those in Thomas Kerr v. City of Bethlehem, which was consolidated at the Trial Court level with Hasfeld, Inc. for disposition. Kerr filed an appeal to this Court at Docket No. 2249 C.D. 2007, with the same appellate counsel who is representing Hasfeld, Inc. Said counsel presents identical arguments for both Kerr and Hasfeld, and in the interest of judicial economy, we consider Kerr the “lead” opinion and Hasfeld the “companion” opinion.

The background of the legislation leading to this appeal is set forth in detail in the “lead opinion,” *Thomas R. Kerr v. City of Bethlehem*, No. 2249 C.D. 2007 (filed June 26, 2008). Hasfeld, Inc. is a Pennsylvania corporation and owner of an undeveloped real estate tract at 1504 Calypso Avenue in Bethlehem, Pennsylvania, which tract never had any structure built on it. In October of 1991, Hasfeld, Inc. purchased the tract following a subdivision from a larger property owned by Paul C. and Eleanor L. Walter which, prior to the subdivision, was included on the National Registry of Historic Places. The City approved the subdivision without restrictions.

On June 13, 2007, Hasfeld, Inc. filed a declaratory judgment action with the Trial Court against the City, challenging the expansion of an “historic district” to include Hasfeld’s property, as well as related amendments to the Historic District Act (the Act),² which allows municipalities to create local historic districts. Pursuant to the Act, locally created historic districts must be certified by the Pennsylvania Historical and Museum Commission (PHMC). Subsequent to such certification, the municipality may appoint a Board of Historical Review (Board) to advise the municipality with regard to issuing a “certificate of appropriateness” to any property owner seeking to erect, demolish, or alter structures on a property within the district.

Because the Trial Court addressed Hasfeld’s complaint along with that of Thomas Kerr in its consolidated opinion, and considering that Hasfeld, Inc. presents identical arguments in its appellate brief as does Thomas Kerr, we

² Act of June 13, 1961, P.L. 282, No. 167, *as amended*, 53 P.S. §§8001-8006.

reference our discussion in our “lead opinion,” *Thomas R. Kerr v. City of Bethlehem*, No. 2249 C.D. 2007 as applicably disposing of Hasfeld, Inc.’s matter.

Accordingly, we affirm the Trial Court’s determination.

JAMES GARDNER COLINS, Senior Judge

