

**[J-110-2010]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

**CASTILLE, C.J., SAYLOR, EAKIN, BAER, TODD, McCAFFERY, ORIE MELVIN, JJ.**

INDIAN ROCKS PROPERTY OWNERS	:	No. 93 MAP 2008
ASSOCIATION, INC. OF LEDGEDALE,	:	
	:	Appeal from the Order of Commonwealth
Appellant	:	Court dated 06-09-2008 at No. 1429 CD
	:	2007 which Reversed the Court of
v.	:	Common Pleas Wayne County order
	:	dated 06-26-2007 at No. 2004-60009.
JOHN P. GLATFELTER AND REGINA L.	:	
GLATFELTER, HIS WIFE,	:	
	:	ARGUED: May 13, 2009
Appellees	:	RE-SUBMITTED: November 22, 2010

**OPINION ANNOUNCING THE JUDGMENT OF THE COURT**

**MR. JUSTICE EAKIN**

**DECIDED: September 29, 2011**

Indian Rocks Property Owners Association, Inc. of Ledgedale originated in 1955 as the governing body of a development located in Salem Township, Wayne County, Pennsylvania. The development consists of 546 acres, and its purpose is “to develop adjacent lakeside land into a miniature community for vacation, recreation and retirement.” Indian Rocks Property Owners Association, Inc. of Ledgedale v. Glatfelter, 950 A.2d 1093, 1095 (Pa. Cmwlth. 2008) (quoting Association’s Official Handbook). The Association developed rules and regulations, which are recorded as protective covenants running with the land. Article VIII, § 1 of the Covenants provides all “building, excavation, exterior remodeling or altering of any structure, wall or fence shall [not] be commenced without obtaining written approval of the Developer ... as to the location, elevation, set back from

property lines, construction materials, quality of workmanship and harmony of external design with existing structures.” Id.

In 1980, John P. Glatfelter and his wife, Regina L. Glatfelter, purchased a lot within the community; John Glatfelter died in 1990, leaving Regina Glatfelter the sole owner. The lot sat vacant until the fall of 2003 when son David Glatfelter began constructing a foundation. The Association initially inspected and approved the excavation, but in December, 2003 informed the Glatfelters the work was substandard and inadequate pursuant to the Covenants. The Glatfelters were ordered to cease construction until a new construction plan was approved.

In April, 2004, the Association filed an equity action alleging the Glatfelters violated the Pennsylvania Construction Code Act, 35 P.S. § 7210.101 et seq., which the Association incorporated into the Covenants by resolution on April 24, 2004. The Association sought an order directing the Glatfelters to comply with the Covenants and to cease work until approval was obtained from the architectural committee. On April 30, 2004, the Glatfelters agreed to stop work until they submitted a new application for construction in conformance with the Covenants, but they failed to comply with the agreement; trial on the equity action was scheduled for July 26, 2005. At trial, the parties entered a stipulation; the Glatfelters agreed to file an application for construction within 60 days, prepare an outline to comply with the Covenants and Construction Code, and hire an engineer to monitor construction. In exchange, the Association waived all past fees and fines. The trial court approved the stipulation and entered it as an order. The Glatfelters again failed to fulfill their obligations pursuant to the stipulation, and the Association filed a petition for civil contempt.

Between the commencement of the equity action in April, 2004 and the July, 2005 trial, Act 92 of 2004 amended the Construction Code to exempt “recreational cabins” from its requirements so long as:

(i) the cabin is equipped with at least one smoke detector, one fire extinguisher and one carbon monoxide detector in both the kitchen and sleeping quarters; [and]

(ii) the owner of the cabin files with the municipality either:

(A) an affidavit on a form prescribed by the department attesting to the fact that the cabin meets the definition of a “recreational cabin” in section 103; or

(B) a valid proof of insurance for the recreational cabin, written and issued by an insurer authorized to do business in this Commonwealth, stating that the structure meets the definition of a “recreational cabin” as defined in section 103.

35 P.S. § 7210.104(b)(7). A “recreational cabin” is defined as a structure:

- (1) utilized principally for recreational activity;
- (2) not utilized as a domicile or residence for any individual for any time period;
- (3) not utilized for commercial purposes;
- (4) not greater than two stories in height, excluding basement;
- (5) not utilized by the owner or any other person as a place of employment;
- (6) not a mailing address for bills and correspondence; and
- (7) not listed as an individual’s place of residence on a tax return, driver’s license, car registration or voter registration.

Id., § 7210.103. Despite adopting the Construction Code the prior year, the Association passed a resolution in April, 2005 refusing to recognize the recreational cabin exemption.

The Glatfelters relied upon the recreational cabin exemption when they responded to the Association’s petition for contempt and argued they were exempt from the Construction Code and the Covenants. On December 26, 2005, the Glatfelters submitted a building permit issued by Salem Township for construction of a “two-story vacation home, slab on grade: stick built (recreational cabin exempt).” Indian Rocks, at 1097 (quoting Salem Township Permit). Attached to the permit was a “Recreational Cabin Affidavit”<sup>1</sup> in which the

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<sup>1</sup> Department of Labor and Industry Form UCC-13.

Glatfelters stated the proposed structure met the requirements of the Construction Code's recreational cabin exemption.

The trial court heard argument on the Association's civil contempt petition on April 12, 2006. At that time, the parties stipulated the issue for determination was "[w]hether or not the provisions of a recreational cabin exclusion [are] applicable in this case and/or whether or not a recreational cabin as defined by the Uniform [Construction] Code creates an exemption which is binding upon the Townships as well as Property Owners Associations." Id. (quoting Stipulation, at ¶ 23). While the trial court agreed the Glatfelters met the recreational cabin exemption, it held the exemption did not apply because the Glatfelters agreed to comply with the Association's requirements as they existed at the time of the April 30, 2004 agreement. Regarding contempt, the trial court found the Glatfelters did not willfully violate the court's order and permitted an additional 90 days to comply. After the Glatfelters failed to do so, the Association filed another contempt petition, which the trial court granted.

The Glatfelters timely appealed the contempt order to the Commonwealth Court. The Commonwealth Court reversed the trial court's order, holding the Glatfelters did not waive their ability to raise the recreational cabin exemption by virtue of the April, 2004 and July, 2005 agreements. Id., at 1100. The court noted the Construction Code unambiguously preempts the field of construction regulation. Therefore, since neither of the agreements specifically referred to the "recreational cabin" exemption, the Glatfelters did not waive the ability to invoke the exemption. The Commonwealth Court did not address whether the purported use satisfied the definition of "recreational activity," as the only issues before it were "whether the recreational cabin exclusion applies ... and whether the Township and the Association are bound by the exclusion." Id., at 1100 n.4.

The Association appealed, and we granted allocatur limited to the following issue: "[w]hether the term 'recreational activity,' as contained in the Construction Code, 35 P.S. §

7210.103, is ambiguous, necessitating that this Court apply the rules of statutory construction to ascertain the intent of the Legislature?” Indian Rocks Property Owners Association, Inc. of Ledgedale v. Glatfelter, 963 A.2d 902, 902-03 (Pa. 2008). We later expanded our scope of review and requested supplemental briefing from the parties on the following issues:

Are appellees entitled to build a “recreational cabin,” as defined in 35 P.S. § 7210.103, in the secondary home planned community of Indian Rocks, which had adopted the Pennsylvania Construction Code Act, 35 P.S. § 7210.101 et seq.?

Are appellees estopped by the agreement with appellant in July of 2005 from building a “recreational cabin” in the secondary home planned community of Indian Rocks?

Per Curiam Order, 12/30/10. As our disposition of the third issue will determine whether the other issues need to be addressed, we will discuss it first.

The Association argues the Glatfelters are estopped from building a recreational cabin under the doctrines of equitable estoppel, promissory estoppel, and estoppel by judicial admission or stipulation. It notes in the July, 2005 Stipulation, the Glatfelters agreed to submit an application with the Association describing the intended construction, to conform with the Association’s rules and regulations then in effect, and to hire an engineer to monitor construction. The Association contends, based upon these assurances, it agreed to end the proceedings and not seek the fines and penalties it levied against the Glatfelters. The Association also suggests the Glatfelters have impliedly waived the recreational cabin exemption by agreeing to abide by the Association’s rules and regulations, which at the time of the agreement specifically refused to adopt the recreational cabin exemption. Pursuant to these various legal doctrines, the Association concludes it would be unfair for the Glatfelters to circumvent its rules and regulations by claiming a recreational cabin exemption when they agreed to abide by the rules and regulations.

The Glatfelters argue the Association’s resolution refusing to recognize the recreational cabin exemption is unenforceable because the Construction Code specifically preempts homeowners’ association rules and regulations. They cite § 7210.104(d)(2)(i) of the Construction Code, which provides “a homeowners’ association or community association shall be preempted from imposing building construction standards or building codes for buildings to be constructed, renovated, altered or modified.” 35 P.S. § 7210.104(d)(2)(i).<sup>2</sup> Thus, they contend, they cannot be estopped from building a recreational cabin because the Association’s rules and regulations are in direct contravention of state law.

Resolution of this issue requires us to interpret the breadth of the Construction Code’s preemption clause; specifically, we must determine the meaning of the phrase “building construction standards or building codes.” Because statutory interpretation is a question of law, our standard of review is de novo, and our scope of review is plenary. See In re Milton Hershey School, 911 A.2d 1258, 1261 (Pa. 2006) (citation omitted). “The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa.C.S. § 1921. When interpreting statutes, “[w]ords and phrases shall be construed according to the rules of grammar and according to their common and approved usage.” Id., § 1903. If the words of a statute are unambiguous, we

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<sup>2</sup> Section 7210.301(d)(1) of the Construction Code similarly states:

The regulations adopted by the department implementing these codes shall supersede and preempt all local building codes regulating any aspect of construction, alteration and repair of buildings adopted or enforced by any municipality or authority or pursuant to any deed restriction, rule, regulation, ordinance, resolution, tariff or order of any public utility or any State or local board, agency, commission or homeowners’ association except as may be otherwise specifically provided in this act.

35 P.S. § 7210.301(d)(1).

are required to interpret the statute in accordance with the plain meaning of the words. Id., § 1921(b).

The Glatfelters suggest because the Construction Code provides for a recreational cabin exemption and the Construction Code preempts homeowners' associations' rules and regulations, a homeowners' association cannot prevent a landowner from building a recreational cabin. Such an interpretation requires a very broad reading of the phrase "building code standards or building codes" found in the preemption clause. The Construction Code does not define "building code standards" or "building codes"; therefore, we look to the intent of the General Assembly in enacting the Construction Code and the ordinary meaning of the relevant phrases.

The Construction Code's purpose is to "provide standards for the protection of life, health, property and environment and for the safety and welfare of the consumer, general public and the owners and occupants of buildings and structures." 35 P.S. § 7210.102(b)(1). With that purpose in mind, we understand "building code standards or building codes" to refer to the materials, manner, and methods of construction — the nuts and bolts so to speak — which ensure a structure's safety. For example, the Construction Code specifies the depth of a stair tread, 34 Pa. Code § 403.21(6)(ii), and whether smoke alarms should be interconnected. Id., § 403.21(6)(i).

Indeed, the Construction Code is voluminous and covers nearly every component of a structure. What it does not cover, however, are the more aesthetic features of a building. The Construction Code does not say whether you can have blue shutters on a green exterior or whether you are permitted to install a satellite dish on your roof. Therefore, while a homeowners' association is preempted from establishing codes related to stair treads, it is not preempted from enforcing more subjective requirements, such as a proposed structure's harmony with other structures. To hold that the Legislature intended to preempt all homeowners' associations' rules and regulations would lead to the absurd

result of disbanding all homeowners' associations in the Commonwealth — a result we must presume the Legislature did not intend. See 1 Pa.C.S. § 1922(1) (General Assembly does not intend result that is absurd, impossible of execution, or unreasonable).

Turning to the stipulation entered between the parties, the Glatfelters agreed to abide by the Association's rules and regulations. Chief among those rules and regulations is Article VIII, § 1 of the Covenants, which provides all “building, excavation, exterior remodeling or altering of any structure, wall or fence shall [not] be commenced without obtaining written approval of the Developer ... as to the location, elevation, set back from property lines, construction materials, quality of workm[a]nship and harmony of external design with existing structures.” Indian Rocks, at 1095 (quoting Association's Official Handbook). In other words, the Association has broad discretion in determining what can or cannot be built within its community, and, for better or worse, the Glatfelters agreed to obtain approval from the Association regarding their intended structure. The Glatfelters cannot use the recreational cabin exemption as a trump card to bypass the rules and regulations to which they agreed. As stated above, the Construction Code could preempt the Association's regulations relating to construction materials and processes, but it does not preempt the Association's ability to refuse a structure for other reasons, including the harmony with other structures and, to some degree, the quality of workmanship.<sup>3</sup>

Having determined the Glatfelters agreed to obtain the approval of the Association regarding the intended structure and that approval has not been granted, we need not

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<sup>3</sup> To be clear, we are not holding the Glatfelters agreed to abide by the Association's resolution that rejected the recreational cabin exemption. Our holding is premised entirely on the Glatfelters' failure to obtain the Association's approval regarding the intended structure. Accordingly, we need not address the validity of the Association's resolution refusing to adopt the recreational cabin exemption.

address the remaining issues. Accordingly, we reverse the Commonwealth Court's order reversing the trial court's finding John P. Glatfelter in contempt.<sup>4</sup>

Order reversed.

Jurisdiction relinquished.

Mr. Justice McCaffery and Madame Justice Orié Melvin join the opinion.

Mr. Justice Saylor files a concurring opinion.

Mr. Justice Baer files a concurring opinion in which Mr. Chief Justice Castille joins.

Madame Justice Todd files a concurring opinion.

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<sup>4</sup> John P. Glatfelter passed away in 1990; therefore, it is unclear why the trial court entered the order against him. However, neither party addressed this issue; therefore, we will not address it either.