

IN THE UTAH COURT OF APPEALS

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Stichting Mayflower Mountain)	MEMORANDUM DECISION
Fonds and Stichting Mayflower)	(Not For Official Publication)
Recreational Fonds,)	
Netherlands associations,)	Case No. 20061019-CA
)	
Plaintiffs and Appellants,)	F I L E D
)	(August 30, 2007)
v.)	
)	2007 UT App 287
Park City Municipal)	
Corporation; East West)	
Partners; and United Park City)	
Mines Co., a Delaware)	
corporation,)	
)	
Defendants and Appellees.)	

Third District, Silver Summit Department, 060500190
The Honorable Bruce C. Lubeck

Attorneys: E. Craig Smay, Salt Lake City, for Appellants
Robert S. Campbell, Clark K. Taylor, Stephen K.
Christiansen, Mark R. Gaylord, Craig H. Howe, and
Brandon J. Mark, Salt Lake City, for Appellees

Before Judges Bench, McHugh, and Thorne.

BENCH, Presiding Judge:

Plaintiffs appeal the trial court's order of dismissal in favor of Defendants, which was based on the following grounds: (1) Plaintiffs' action was time-barred because Plaintiffs' initial filing in federal court did not toll the thirty-day statute of limitations; and (2) Plaintiffs failed to exhaust administrative remedies prior to bringing suit in state district court. Because we affirm based on Plaintiffs' failure to exhaust remedies, we do not discuss the merits of Plaintiffs' other arguments.

We review for correctness the trial court's dismissal based on Plaintiffs' failure to exhaust administrative remedies. See

Patterson v. American Fork City, 2003 UT 7, ¶¶8-9, 67 P.3d 466. An entity may challenge a municipality's land use decision in district court only after exhausting all administrative remedies available in a given municipality. See Utah Code Ann. § 10-9a-801(1) (Supp. 2007). Utah municipalities are empowered by statute to create and modify their own administrative procedures for appealing land use decisions. See id. § 10-9a-701(1).

In Park City, "[f]inal actions by the Planning Commission on . . . [master planned developments] may be appealed to the City Council." Park City, Utah, Municipal Code § 15-1-18(C) (2004). Such appeals must be filed with the city recorder and may take the form of a "letter or petition." Id. § 15-1-18(F). The appeal must contain, among other things, a "comprehensive statement of all the reasons for appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken." Id.

In this case, Plaintiffs failed to exhaust the available administrative remedies by failing to appeal the planning commission's decision in the manner prescribed by the Park City Code. Following the decision of the planning commission, Plaintiffs sent a letter to the city council. There is no evidence that the letter was filed with the city recorder. Furthermore, the letter's stated purpose was to "register objections to" and "correct errors in" the staff report, rather than to appeal the planning commission's decision. Even were we to construe the letter as an appeal, the letter failed to comply with Park City's requirements for appeals because it failed to enumerate the provisions of law alleged to be violated by the recommended action or to otherwise provide a comprehensive statement of the reasons for appeal. Plaintiffs' failure to properly appeal the planning commission's decision prevented the city council from undertaking a proper administrative review of the prior land use decision, as is contemplated by the Park City Code. See id. § 15-1-18(H).

Given the absence of a proper appeal, the trial court correctly dismissed Plaintiffs' complaint on the ground that Plaintiffs failed to exhaust administrative remedies. Because failure to exhaust administrative remedies acts as a complete bar to bringing an action in district court, we decline to consider the trial court's additional holding that Plaintiffs

were time-barred from bringing suit in state district court.
Accordingly, we affirm.

Russell W. Bench,
Presiding Judge

WE CONCUR:

Carolyn B. McHugh, Judge

William A. Thorne Jr., Judge