

Supreme Court

No. 2020-168-M.P.

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Champlin’s Realty Associates :

v. :

Coastal Resources Management Council. :

ORDER

Before the Court is a joint motion of Champlin’s Realty Associates (Champlin’s) and the Coastal Resources Management Council (CRMC) that seeks to “incorporate and merge” a Memorandum of Understanding (MOU) “into a consent order of this Court[,]” the MOU having been brought about by the two moving parties through private mediation.¹ The intervenors, the Town of New Shoreham, the Committee for the Great Salt Pond, the Block Island Land Trust, the Block Island Conservancy, and the Conservation Law Foundation (CLF) (collectively, the Intervenors), oppose the motion. In addition, we recently granted the motion to intervene filed by the Attorney General, on behalf of the State of Rhode Island, who also opposes the motion. Champlin’s has also filed a motion to hold the matter in abeyance until the joint motion is decided.

The Supreme Court exercises jurisdiction over the underlying matter as the result of our granting two petitions for writ of certiorari filed by Champlin’s in which it seeks review of a June 17, 2020 judgment of the Superior Court. The Superior Court entered judgment in favor of “defendants Paul E. Lemont, et. al. and the Coastal Resources Management Council of the State of Rhode Island; *and for intervenor/defendants the Committee for the Great Salt Pond, the Block*

¹ The MOU is dated December 29, 2020. The proposed consent order document that the movants seek to have entered has never been filed with this Court.

Island Land Trust, the Town of New Shoreham, and the Conservation Law Foundation.”
(Emphasis added.)²

On November 5, 2020, the clerk of the Washington County Superior Court certified and transmitted to this Court the record of proceedings below. The Supreme Court Clerk’s Office docketed the underlying matter on November 30, 2020.

This matter is not new to the Court. In *Champlin’s Realty Associates v. Tikoian*, 989 A.2d 427 (R.I. 2010), we held, among other things, “that Tikoian, the CRMC, and the intervenors are all aggrieved parties within the statute and, therefore, properly are before this Court.” *Champlin’s Realty Associates*, 989 A.2d at 438. Even before the 2010 decision, since the application brought by Champlin’s in 2003, the intervenors have been involved in this case at every turn. The papers filed in this Court as to the instant motion raise issues of fact not previously raised in the Superior Court. Such questions of fact are appropriately addressed in the Superior Court.

It is not the function of this Court to “rehear” a case or consider new evidence not presented in the Superior Court. *See State v. Rosati*, 594 A.2d 885, 886 (R.I. 1991) (“It is well settled that this [C]ourt has been an appellate tribunal since the founding of the Superior Court in 1905. It is not our function to take testimony and act as a court of nisi prius.”). When a case comes before this Court on certiorari, our task is clear: We “examin[e] the record for judicial error, [and] ‘we inspect the record to discern if there is any legally competent evidence to support the findings of the hearing justice below.’” *State v. Poulin*, 66 A.3d 419, 423 (R.I. 2013) (quoting *Brown v. State*, 841 A.2d 1116, 1121 (R.I. 2004)).

² Although the Superior Court judgment did not list the Block Island Conservancy, our review of the record indicates that this entity was a defendant/intervenor in that case, and, therefore, bound by the judgment.

Additionally, while the Court is supportive of alternative dispute resolution, if parties enter court-ordered appellate mediation and that mediation session is a success, the parties will be asked to finalize the settlement and withdraw the appeal. David A. Wollin, *Rhode Island Appellate Procedure* § 35:2 (West 2020). It is not the role of this Court to enter and ultimately enforce a substantive stipulation or consent order for court-ordered appellate mediation; we do not consider private mediation to be any different.

For the reasons stated herein, the joint motion of Champlin's and CRMC is hereby denied. The motion by Champlin's to hold in abeyance is denied as moot. Champlin's shall file a statement of the case under Article I, Rule 12A of the Supreme Court Rules of Appellate Procedure within twenty (20) days.

Justice Goldberg did not participate.

Entered as an Order of this Court this **26th** day of **March 2021**.

By Order,

_____/s/_____
Clerk