



Massachusetts Federal Court Reinforces the Importance of Timeliness in Zoning Appeals

In a case decided last month, the United States District Court for the District of Massachusetts dismissed an appeal of a zoning board's decision as untimely, despite the plaintiff's claim that he attempted to timely serve his complaint but the clerk's office was unexpectedly closed.

M.G.L. c. 40A, § 17 requires appeals of local zoning board decisions to be brought within twenty days after the decision is filed in the local clerk's office. In addition, a copy of the complaint must be provided to the town clerk within the same twenty-day period. On Monday, September 19, 2017, the last day of the statutory twenty-day period, Plaintiff John Holdcraft ("Holdcraft" or "Plaintiff") filed a complaint against the Town of Brookfield (the "Town") and its Zoning Board of Appeals ("ZBA") seeking to challenge the ZBA's decision requiring him to remove a shed on his property. When Plaintiff attempted to bring a copy of the complaint to the Town clerk's office around 3:45 p.m., the office was closed. Plaintiff then emailed a copy of the complaint to the Town's counsel and announced that he had filed it during a Board of Selectmen meeting that evening.

The court nevertheless dismissed the complaint as untimely, relying on the strictness with which the twenty-day deadline is applied, and stated: "Where a town clerk does not receive notice by the end of the twenty-day statutory notice period, the complaint is subject to dismissal without regard to the reason for failing to meet the deadline." The court also noted that the Town clerk's office closed at 3:00 on Mondays, a fact the Plaintiff had apparently failed to determine before arriving there at 3:45. Because the Plaintiff "waited until the last possible minute to file his complaint," the court could find no legal or equitable circumstances justifying the late filing.

This case serves as an important reminder of the risk of waiting until the very end of the statutory period to file a G.L. c. 40A appeal.

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