

1 DOCKET No. HHD CV 155039449

2 MARTIN, TIMOTHY

SUPERIOR COURT

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4 Plaintiff,
5 vs.

JUDICIAL DISTRICT OF HARTFORD

6 AT HARTFORD

7 TOWN OF SIMSBURY, ET AL.

JANUARY 26, 2016

8 Defendant

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10 MEMORANDUM OF DECISION

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12 Before this court is an action purporting to be an appeal from a decision of the Simsbury
13 Inland Wetland Agency (wetlands appeal). In this action, the plaintiff has named as defendants
14 in his appeal the Town Clerk, Town of Simsbury, and the Town Clerk, Town of Simsbury for the
15 Town of Simsbury Inland Wetlands Commission. In addition to filing a motion to dismiss based
16 on lack of personal jurisdiction for failure to name the appropriate party, the defendants move to
17 dismiss asserting that the plaintiff has failed to exhaust his administrative remedies.
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19 Relevant to this court's consideration of the defendants' motion are related actions filed
20 by the plaintiff. The plaintiff, Timothy Martin, has filed a negligence action under *Martin v.*
21 *Town of Simsbury Planning and Zoning Office, et al.*, Docket No. HHD-CV-15-5039449, as well
22 as an appeal under *Martin v. Simsbury Zoning Board of Appeals*, Docket No. HHD-CV-15-
23 5039527 (ZBA appeal). All of the aforementioned matters, the wetlands appeal, which is the
24 subject of this memorandum of decision, the negligence action and the ZBA appeal, arise from a
25 dispute in which the plaintiff has challenged the Town of Simsbury's Zoning Board of Appeals'
26 (ZBA) decision to affirm the denial of his application for a building permit on property he owns
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1/26/16 - cc: Rpt. Judd, Drc., Martin; Uplike.
Sag & Associates

FILED
JAN 27 2016
CLERK OF SUPERIOR COURT
HARTFORD, CT

1 in Simsbury. In *Martin v. Simsbury Zoning Board of Appeals*, Docket No. HHD-CV-15-
2 5039527, the court, *Moukawsher, J.*, upheld on December 2, 2015 the decision of the ZBA,
3 which by implicates the actions of the officials referenced in this wetlands appeal and the
4 negligence action, specifically Zoning Compliance Officers Michael Glidden and Howard
5 Beach. The issue the court specifically addressed in the ZBA appeal, however, was the
6 plaintiff's dispute regarding whether his property had or could have the required frontage
7 necessary for a building permit.
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10 According to documentation provided by both the plaintiff and the defendants in their
11 briefs before this court, Glidden and Beach expressed concerns regarding the property's potential
12 for the presence of wetland soil which also needed to be resolved before a permit could be
13 issued. Therefore, Glidden, in particular, required that the plaintiff confirm that his property
14 does not have wetlands soil and/or pursue a determination from the Simsbury Inland Wetlands
15 Commission in order to resolve his claim that his property was not subject to the regulatory
16 action.
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18 The Inland Wetlands and Watercourses Regulations of the Town of Simsbury,
19 specifically the application requirements under the provisions of section 7, outline the process by
20 which the plaintiff could have requested that "the Commission . . . determine whether or not a
21 proposed activity involves a significant impact activity . . . [and] [i]f the Commission finds that a
22 proposed use or activity does not involve any regulated activity as defined in these regulations,
23 no permit for such activities shall be required." The plaintiff, however, did not initiate this
24 process because he insists that the regulations are not intended for a person like himself "who has
25 no wetlands on their property." Given the plaintiff's interpretation of how his property is
26 depicted on the "official approved inland wetlands map," the plaintiff asserts that it would make
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1 “no sense” for him to seek from the Commission a determination of that which he insists he
2 already knows – that he has no wetlands soil on his property. The plaintiff’s interpretation of
3 maps relevant to his property, however, is the subject of significant dispute which has been
4 raised in all three actions and, at least with respect to the ZBA appeal, was not resolved in his
5 favor. Irrespective of the merits of his claim with respect to the wetlands issue, however, the
6 plaintiff simply has not initiated the administrative process with respect to a wetlands
7 determination and cannot bypass that step by simply captioning this action as an appeal.
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9 “It is a settled principle of administrative law that if an adequate administrative remedy
10 exists, it must be exhausted before the Superior Court will obtain jurisdiction to act in the
11 matter.” (Internal quotation marks omitted.) *Stepney, LLC v. Fairfield*, 263 Conn. 558, 563,
12 821 A.2d 725 (2003). “An aggrieved party who circumvents the administrative appeal process
13 should not be permitted to force the agency to prove in Superior Court those matters that the
14 administrative process is designed to handle. To allow the plaintiff in this case to do so ‘would
15 mean that a person who ignores the available administrative remedies could have the Superior
16 Court act as an administrative fact finder in the first instance, whereas a person who exhausts the
17 administrative remedies, to no avail, would be entitled in the Superior Court to only a deferential
18 record review of the agency’s actions.’ ” *Id.*, 569, quoting *Haddam v. LaPointe*, 42 Conn. App.
19 631, 638, 680 A.2d 1010 (1996).
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23 “A primary purpose of the doctrine is to foster an orderly process of administrative
24 adjudication and judicial review, offering a reviewing court the benefit of the agency’s findings
25 and conclusions. It relieves courts of the burden of prematurely deciding questions that,
26 entrusted to an agency, may receive a satisfactory administrative disposition and avoid the need
27 for judicial review. . . . Moreover, the exhaustion doctrine recognizes the notion, grounded in
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1 deference to [the legislature's] delegation of authority to coordinate branches of Government,
2 that agencies, not the courts, ought to have primary responsibility for the programs that [the
3 legislature] has charged them to administer. . . . Therefore, exhaustion of remedies serves dual
4 functions: it protects the courts from becoming unnecessarily burdened with administrative
5 appeals and it ensures the integrity of the agency's role in administering its statutory
6 responsibilities." (Citations omitted; internal quotation marks omitted.) Id., 564-65.
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8 Because the plaintiff has failed to pursue his administrative remedies, this court grants the
9 defendants' motion to dismiss and does not reach the other grounds raised by the defendants in
10 their motion to dismiss. The plaintiff's motion for summary judgment, which was also before
11 this court, is therefore moot.
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