

COMMONWEALTH OF MASSACHUSETTS

LAND COURT

DEPARTMENT OF THE TRIAL COURT

HAMPDEN, ss.

PERMIT SESSION CASE
No. 21 PS 000331 (GHP)

PALMER RENEWABLE ENERGY, LLC,

Plaintiff,

v.

ZONING BOARD OF APPEALS of the
CITY OF SPRINGFIELD, et al.,

Defendants.

JUDGMENT

In this case, plaintiff Palmer Renewable Energy appeals pursuant to G. L. c. 40A, § 17 from a decision of the City of Springfield Zoning Board of Appeals (“Board”), whose members are defendants in their official capacities, revoking two building permits previously issued to the plaintiff for construction of a biomass fired energy plant on property located at 1000 Page Boulevard, Springfield (“Property”). Plaintiff alleges that the building permits issued to it in 2011 (“Permits”) remain valid or were preserved by the commencement of construction activity at the Property. The Court (Piper, C.J.) issued an Order of Remand on August 11, 2021, directing that the Board hold a public hearing and issue a revised decision that supplied previously omitted reasons for the Board’s decision revoking the Permits issued. After a duly noticed hearing, the Board filed its decision, including supplemental reasoning, with the court on September 22, 2021 (“Decision”).

This matter came before the court on plaintiff’s motion for summary judgment. In its request for summary judgment, plaintiff asked the court to annul the Board’s Decision and determine that the Permits are valid and in effect, contending that the Permits remain in effect because of equitable and statutory tolling, as well as by the commencement of construction pursuant to the Permits. In their cross-motion for summary judgment, the defendants asked the court to uphold the Board’s decision, based on a determination that the Permits had expired and become invalid.

In an Order of even date, the court (Piper, C.J.) has denied plaintiff's motion for summary judgment and granted the defendants' cross motion for summary judgment. In accordance with the Order issued by the court, it is

ORDERED and ADJUDGED that the Decision of the City of Springfield Zoning Board of Appeals, filed September 22, 2021, after remand from this court, and revoking the two building permits issued to the plaintiff in 2011, is not arbitrary, capricious, is not based on a legally untenable ground, and is not for any other reason legally entitled to be modified or annulled by the court; the Decision accordingly is upheld. It is further

ORDERED and ADJUDGED that this Judgment disposes of the entire case and no costs, fees, expenses or other amounts, and no other relief, are awarded in this matter.

By the Court. (Piper, C.J.) /s/ GHP

Attest:

/s/ Deborah J. Patterson

Deborah J. Patterson
Recorder

Dated: November 30, 2023