STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

JEREMY ALLEN, et al,

Appellants,

v

PARK TOWNSHIP, a Michigan municipal Corporation,

Appellee,

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OPINION AND ORDER

File No. 2025-8303-AA

Hon. Jon H. Hulsing

Introduction

This case is the latest in a continuing dispute between landowners and municipal government regarding the propriety of Short-Term Rentals (STR's) within the municipality. In 2023 many of the same appellant landowners formed a non-profit corporation and sued appellee Park Township (Township) for alleged statutory and constitutional violations when the Township began to enforce a ban on STR's and purportedly amended the Township Zoning Ordinance in 2023 to expressly prohibit STR's. While appellee was enjoined from enforcing the STR ban for a period of time in that lawsuit, appellee ultimately corrected its procedural errors and properly amended the Township Zoning Ordinance in March 2024 to expressly ban STR's in residential zoning districts. The issue then became whether the prior iteration of the Township Zoning Ordinance allowed STR's in residential zoning districts so that current STR property was "grandfathered." Because administrative remedies had not been exhausted, the Court dismissed that case for want of jurisdiction and lifted the injunction.[1]

Appellants then challenged, through administrative proceedings, appellee's position, that the 1974 Zoning Ordinance prohibited STR's. In May 2025, the Zoning Board of Appeals (ZBA)

[1] See Ottawa County Circuit Court No: 23-7474-CZ. The reference to this closed case is intended to be a brief overview of the prior action to provide background to the reader.

rendered an opinion in which it interpreted both the 1963 and 1974 Zoning Ordinances as those ordinances pertained to STR's. The ZBA found:

- The Township Zoning Ordinance did not define the term "short-term rental" prior to the 2024 amendment to the Zoning Ordinance.
- The use of property for a short-term rental is a use that provides lodging accommodations on a transient or short-term basis in exchange for compensation.
- Short-term rentals were permitted as tourist homes in "at least" one of the two Residence Districts of the 1963 Zoning Ordinance.
- Since the 1974 Zoning Ordinance, a short-term rental has been considered a commercial use of property that primarily serves tourist and transient users, falling within the definition of motel and tourist home.
- The 1974 Zoning Ordinance excludes short-term rentals from the definition of a "dwelling."
- Since the 1974 Zoning Ordinance, a short-term rental has been a permitted use only in the C-2 Resort Service Commercial District.

Appellants filed a timely appeal to this Court. The central issue on appeal is whether the prior iterations of the Zoning Ordinances prohibit STR's. The Court finds that the 1963 Zoning Ordinance allowed STR's in Residence District B, and where specifically permitted by the Appeal Board in Residence District A. The Court finds that the 1974 Zoning Ordinance allowed STR's only in Commercial District C-2.

Brief Factual Background

Appellants are scores of landowners who rent their houses within Park Township on a short-term basis. Many of those landowners have engaged in short-term renting of their houses for many years. It is undisputed that for nearly 50 years the Township did not take enforcement action against any homeowner who rented his property on a short-term basis. In fact, various Township employees, including former zoning administrators, regularly opined that the zoning ordinance did *not* prohibit STR's. However, the issue of STR's was never brought before the ZBA to render a formal opinion until this case.

As a result of increased citizen complaints which may have correlated to an ever-increasing number of STR's, the Township studied the issue and concluded that the Zoning Ordinance did

not permit STR's in residential districts. Hence, enforcement action began in 2023. In addition, the Township amended its Zoning Ordinance in 2024 to expressly prohibit short-term renting for less than 29 consecutive days.[2] Appellants challenged the Township's interpretation of the Zoning Ordinance and commenced this action.

Standard of Review

"Michigan's Constitution sets forth the guiding principles of how courts should review a decision of an administrative body. It provides:

> All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record."[3]

"[T]he Interpretation and application of a municipal ordinance is a question of law, which this court reviews de novo."[4] "Ordinances are treated as statutes for the purposes of interpretation and review."[5] "When the question of law is the construction of an ambiguous ordinance, the constraints of the rules of statutory construction are of foremost importance. The court is not free to substitute its judgment by imposing what it considers to be the wisest version of the ordinance, but is confined to an analysis of the text of the ordinance and, in the face of ambiguity, a determination of what the legislative body that enacted the ordinance intended by the language in question."[6] "A statutory provision is ambiguous only if it conflicts irreconcilably with another provision or it is equally susceptible to more than one meaning. . . . When construing a statute, we must assign every word or phrase its plain and ordinary meaning unless the Legislature has provided specific definitions or has used technical terms that have acquired a peculiar and

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[2] Again, the 2024 amendment is not at issue in this case.

[3] Const 1963, art 6, § 28. *Hodge v US Sec Assoc's, Inc*, 497 Mich 189, 193–94; 859 NW2d 683 (2015).

[4] *Great Lakes Soc v Georgetown Charter Twp*, 281 Mich App 396, 407–08; 761 NW2d 371 (2008).

[5] *Hughes v Almena Twp*, 284 Mich App 50, 61; 771 NW2d 453 (2009).

[6] *Macenas v Vill of Michiana*, 433 Mich 380, 396–97; 446 NW2d 102 (1989).

appropriate meaning in the law."[7] In short, "[i]f the language is clear, we assume that the Legislature intended the plainly expressed meaning, and we enforce it as written. If the language is ambiguous, we apply a reasonable construction that best accomplishes the intent of the Legislature."[8]

The 1963 Zoning Ordinance

The following are relevant definitions from Article II of the 1963 Ordinance:

> **Section 6. Boarding House**. Primarily a family dwelling where meals with or without lodging are furnished for compensation on a weekly or monthly basis to one or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.
>
> **Section 12. Dwelling.** Any building or part thereof, occupied as the home, residence, or sleeping place of one or more persons either permanently or transiently, except automobile trailers and cabins.
>
> **Section 13. One Family Dwelling.** A dwelling occupied by but one (1) family and so designed and arranged as to provide living, cooking and eating space for one (1) family only.
>
> **Section 24. Hotel.** A building where lodging is furnished with or without meals is furnished to transient or resident guests for compensation and containing more than four (4) rooms for sleeping and having no cooking facilities in any individual lodging, but wherein a restaurant may or may not be located.
>
> **Section 25. Lodging House.** Primarily a family dwelling where lodging with or without meals is furnished on a weekly, monthly, or any paying basis to one or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.
>
> **Section 37. Tourist Home.** Primarily a family dwelling where lodging with or without meals is furnished for compensation chiefly on an overnight basis and mainly to transients, but not necessarily to anyone who may apply.

Notably, "hotel" was defined in this iteration of the Zoning Ordinance, but "motel" was not. Applying these definitions, Article V of the 1963 Ordinance prohibited all land uses in Residence District A other than those explicitly permitted:

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[7] *Detroit Media Grp, LLC v. Detroit Bd of Zoning Appeals*, 339 Mich App 38, 51; 981 NW2d 88 (2021).

[8] *Hughes v Almena Twp*, 284 Mich App 50, 62; 771 NW2d 453 (2009), internal citations omitted.

> **Section 1. Uses Permitted.** No building or part thereof shall be erected, altered or used, or land used, in whole or in part, for any other than one (1) one [sic] or more of the following specified uses:
>
> (a) Single family dwellings.
>
> (b) Hotels and Motels provided that such hotels and motels shall only be erected upon the Board of Appeals approving the location and the conditions of the erection. . . .
>
> (c) Churches and schools, provided that sufficient off street parking shall be provided as approved by the Board of Appeals.
>
> (d) Recreational and religious facilities of a non-commercial nature. The phrase non-commercial nature shall for the purpose of this Ordinance be construed as meaning that such facilities shall not produce an income to any person, partnership, association, or profit making corporation . . . .
>
> (e) Farming on every land area of two (2) acres or more provided that all dwellings and other buildings conform to the requirements of this ordinance. . . .
>
> (f) Publicly owned and operated parks.

Article VI of the 1963 Ordinance allowed the following relevant uses in Residence District "B:"

> (a) All uses permitted in Residence District "A" shall be permitted in this district.
>
> * * *
>
> (c) The carrying on of tourist room business for the housing of transient travelers, the renting of rooms to permanent roomers and the operation of boarding houses shall be permitted in this district.

Analysis of the 1963 Ordinance

The term "short-term rentals" was not used in the 1963 Zoning Ordinance. However, the STR concept was addressed as boarding houses, lodging houses, and tourist homes were each defined. Of course, all of those establishments involve transient guests. In Residence District B, transient housing was expressly allowed *in addition to* those uses which were allowed in Residence District A. It is vitally important to note that the only uses allowed in Residence District A were the uses explicitly permitted by the Ordinance, and the only lodgings that the 1963 Zoning Ordinance directly allowed in Residence District A were single family dwellings. Tourist rooms and lodging houses were prohibited, while hotels and motels were allowed only if specifically approved by the Board of Appeals. In other words, Residential District A precluded transient accommodations unless an individual exception was made.

Furthermore, Article VI, subsection (a) expressly stated that all uses permitted in Residence District A were also permitted in Residence District B. Subsection (c) then added that tourist room business and boarding houses were permitted in Residence District B. These uses were *not* otherwise permitted in Residence District A. If tourist homes were permitted in Residence District A, then "tourist room business" would not have been listed as an additional permitted use in Residence District B.

It is true that under the 1963 Ordinance, the term "dwelling" contemplated both permanent and transient occupants. However, a "one family dwelling" precluded the family from renting a portion of the home to transient nonfamily guests while the family resided in the home with the transient. In such a case, the room rented to the transient would become a "tourist room," which in turn would make the house a "tourist home," rather than a "one family dwelling."[9] Boarding houses, lodging houses, and tourist homes where transient occupants reside in the home with the family were not, by definition, single family or one family dwellings and were not allowed in Residence District A.

We must now address the situation where the owner of the one family dwelling does not share the structure with the transient guest and the whole house is provided to transient guests for compensation. Under the 1963 Ordinance, tourist homes did not require the sharing of the dwelling by the owner/occupant with transient guests. Only Residence District B allowed a "tourist room business." While "tourist room business" was not defined, that phrase can easily be interpreted by referring to the definition of a "tourist home." Frankly, having a tourist home simply means the operation of a tourist room business as the rental is to transient guests for compensation. Again, tourist homes were only allowed in Residence District B.

As mentioned, "motel" was not defined by the 1963 Ordinance, but we do know that motels were prohibited in Residence District A, unless the Appeals Board approved the motel. The dictionary definition of "motel" is a hotel for automobile tourists.[10] As used in the above definition

[9] "One family dwelling" as defined in Article II, Section 13, of the 1963 Zoning Ordinance is clearly synonymous with "single family dwelling," the term used throughout the Ordinance.

[10] *Webster's Third New International Dictionary, Unabridged Edition* (1965).

of "motel," one definition of "hotel" is a house licensed to provide lodging.[11] Therefore, STR's are a type of motel.

It is disingenuous to argue that the absence of the homeowner while the transient guests are renting the home suddenly turned otherwise prohibited commercial activity into a permitted single family dwelling.[12] It is also important to note that the only commercial uses contemplated within Residence District A were hotels and motels with Board of Appeals approval, or farming. Frankly, STR's are commercial uses of property, as will be shown *infra.*

The Court concludes that the ZBA correctly determined that STR's were allowed in Residence District B as tourist homes under the 1963 Ordinance, and the Court further concludes that STR's were only allowed in Residence District A if the then-constituted Board of Appeals approved the STR as a motel or hotel.[13]

The 1974 Zoning Ordinance

The following are relevant definitions from the original version of the 1974 Zoning Ordinance:

> **SECTION 3.13 DWELLING**. Any building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families, but not including motels, hotels, tourist rooms or cabins, or mobile homes.
>
> (a) Dwelling, Single-Family—A building designed for use and occupancy by one (1) family only.
> (b) Dwelling, Two-Family—A building designed for use and occupancy by two (2) families only.
> (c) Dwelling, Multi-Family—A building designed for use and occupancy by three (3) or more families.
>
> **SECTION 3.27 MOTEL**. A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by automobile travelers. The term shall include any building or building groups designated as

[11] *Webster's Third New International Dictionary, Unabridged Edition* (1965).

[12] If the label "tourist home" was no longer applicable, the structure would then be a motel—which required a permit in Residential District A.

[13] The Court concurs with the ZBA that some STR's could also fit within the definitions of lodging houses and hotels. Regardless, those uses are also precluded in Residential District A, except as noted above.

motor lodges, transient cabins, or by any other title intending to identify them as providing lodging, with or without meals, for compensation on a transient basis.

SECTION 3.40 TOURIST HOME. A building, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

Chapter XVI described the C-2 Resort Service District:

SECTION 16.01 DESCRIPTION AND PURPOSE. This Zoning District is for commercial uses that primarily serve tourists and seasonal residents.

SECTION 16.02 USE REGULATIONS. Land, buildings, or structures in this Zoning District may be used for the following purposes only:

(l) Hotels and motels

* * *

(s) Resort, including seasonal cabins and similar seasonal housing units.

* * *

(x) Other similar retail business or service establishments which supply convenience commodities or perform service primarily for tourists and for seasonal residents when authorized as a special use by the Board of Appeals.

Analysis of the 1974 Ordinance

Once again, STR's were not specifically mentioned. "Dwelling" and "tourist home" are each partially defined in the 1974 Ordinance by excluding motels. If a given building is a motel, it cannot also be a dwelling or a tourist home. This exclusion applies without respect to whether the dwelling in question is a single-family, two-family, or multi-family dwelling. We must look to the definition of "motel." When the 1974 Zoning Ordinance was first enacted, "motel" was defined to include any buildings "designated as motor lodges, transient cabins, *or by any other title intending to identify them as providing lodging . . . for compensation on a transient basis.*"[14] STR's provide lodging for compensation on a transient basis. An STR is therefore, by definition, simply another name for a motel.

[14] This inclusive definition would also seem to encompass boarding houses and lodging houses, as previously defined in the 1963 Ordinance.

Whether a given building might be a tourist home, rather than a motel, is ultimately irrelevant. Like a motel, a tourist room is explicitly excluded from the definition of dwelling. While "tourist room" is not defined by the Ordinance, reference to the definition of "tourist home" provides the framework to define a "tourist room." A "tourist home" requires that a resident family provides lodging in its home for compensation. Simply stated, a "tourist room" is the room within a tourist home that the resident family rents to the transient guest. When a resident family offers a tourist room in its home for rent, the building becomes a tourist home and can no longer be considered a dwelling under the Ordinance definition.

The 1974 Ordinance calls for ten types of zoning districts, with the permissible land use in each district limited to the uses specified in the Ordinance for that type of district.[15] Of those districts, the seven residential or agricultural districts all limit the land use relevant here to dwellings, whether single-family, two-family, or multi-family.[16] Motels and tourist rooms are each equally prohibited outside of the C-2 Resort Service District.[17] An STR, whether defined as a motel or a tourist home, would not be allowed to operate in any of the residential or agricultural districts under the 1974 Zoning Ordinance.[18]

Appellants' concession during oral arguments that the 1974 Ordinance equated STR's with motels is very important for two reasons. First, it renders moot any argument that the 1974 Zoning Ordinance was vague or ambiguous. Second, it voids appellants' argument that STR's had been permitted for 50 years.

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[15] 1974 Zoning Ordinance, §§ 5.01, 6.02, 7.02, 8.02, 9.02, 10.02, 11.02, 12.02.

[16] *Id.*

[17] *Id.* Motels and tourist rooms also appear to be permissible in a PUD Planned Unit Development District. 1974 Zoning Ordinance Chapter XIII. The PUD District was a maximally flexible district that permitted all uses permitted in any other district. However, this zoning was intended for larger developments and required review and approval by the Township Board and the Zoning Board of Appeals under procedures described in the Ordinance. It is not clear that any PUD containing an STR was ever approved while the 1974 Ordinance was in effect.

[18] The Court agrees with appellants that under the 1974 Zoning Ordinance, a tourist home requires that the "host" family be present in the home with the transient guest. To give effect to every word in the ordinance, "lodging provided by a resident family in its home" means that the family also occupies the home with the transient. This distinguishes a tourist home from a motel. To the extent that the ZBA conflated "tourist home" with "motel," that was error, although that error does not affect the ultimate result.

The 2003 and 2018 Amendments to the Zoning Ordinance

In 2003 and 2018 the definitions of "dwelling" and "motel" were amended. The 2018 amendments were not substantive, but related to numbering and format. Hence, this Court will use the 2018 definitions which reflect the 2003 amendments:

> **Section 38-6** Definitions in relevant parts:
>
> **DWELLING.** Any building or portion of a building that is occupied in whole or in part as a home or residence, either permanently or temporarily, by one or more families, but not including motels, hotels, resorts, tourist rooms or cabins.
>
> > (1) MULTIFAMILY—A building designed for use and occupancy by three or more families.
> >
> > (2) SINGLE-FAMILY—A building designed for use and occupancy by one family only.
> >
> > (3) TWO-FAMILY—A building designed for use and occupancy by two families only.
>
> **MOTEL.** A commercial establishment consisting of a building or group of buildings on the same lot, whether detached or in connected rows, which offers lodging accommodations and sleeping rooms to transient guests in return for payment. Access to lodging facilities is generally from the outside.
>
> **TOURIST HOME.** A building, other than a hotel, boardinghouse, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

Analysis of the 2003 and 2018 Amendments to the Zoning Ordinance

The next question is whether the 2003 amendment to the Zoning Ordinance restricted the definition of motel, thereby allowing STR's in residential districts. Much of appellants' case rests upon their belief that the 2003 amendment takes STR's outside the definition of "motel." Appellants argue that the 2003 amendment is dispositive because even though the 1974 definition of "motel" included STR's, the 2003 amendments excluded STR's from that definition. Hence, STR's in use after 2003 must be grandfathered.

The 2003 amendment defined "motel" as a "commercial establishment consisting of a building . . . which offers lodging accommodations and sleeping rooms to transient guests in return for payment." Appellants argue that STR's are not commercial establishments; thus, they cannot

be motels. By definition, a motel is a certain type of commercial establishment. We must first determine what constitutes a "commercial establishment." "Establishment" is a noun and "commercial" is the adjective describing the noun.

Various dictionaries have slightly different descriptors of "establishment:"

- A more or less fixed . . . place of business or residence together with all the things that are an essential part of it (as grounds, furniture, fixtures . . . employees).[19]
- A place of business or residence with its furnishings and staff.[20]
- Place of business.[21]
- An institution or place of business, with its fixtures and organized staff.[22]

While the definitions vary slightly, they refer to a physical place with associated features, *if any.* That is, not every "establishment" has the same things that are essential to it. Appellants highlight the definition where an establishment has "an organized staff" as if those words somehow are dispositive. Certainly, the homeowner of an STR and anyone hired to manage or service the property could qualify as "organized staff." Any staff would be included as part of the "establishment," but a lack of staff does not exclude an STR from the definition of "establishment." There is no requirement for any establishment to have an organized staff. An STR with no employees, operated solely by its owner, would nevertheless remain classified as an establishment. Thus, the word "establishment" at its core simply refers to the physical place of the activity.

Likewise, "commercial" has several similar meanings:

- Of, in, or relating to commerce. ("Commerce" means the exchange or buying of and selling of commodities).[23]
- From the point of view of profit, or having profit as the primary aim.[24]

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[19] *Webster's Third New International Dictionary, Unabridged Edition* (1965).

[20] *Mirriam-Webster.com Dictionary* (2025).

[21] *Black's Law Dictionary* (5th ed).

[22] *Black's Law Dictionary* (6th ed).

[23] *Webster's Third New International Dictionary, Unabridged Edition* (1965).

[24] *Id.*

- Related to making money by buying and selling things.[25]
- Relates to or is connected with trade and traffic or commerce in general.[26]

Simply put, "commercial" refers to business or monetary transactions (commerce) in which goods or services are exchanged for money. A "commercial establishment" is a place where business or monetary transactions occur. We next look at the rest of the definition of a motel, which is a building "which offers lodging accommodations and sleeping rooms to transient guests in return for payment." STR's clearly offer lodging accommodation and sleeping rooms for transient guests in return for payment. Hence, an "STR" is included in the 2003 Ordinance's definition of a "motel."

The Court of Appeals agreed in *Aldrich*. "We conclude that . . . the act of renting property to another for short-term use is a commercial use, even if the activity is residential in nature."[27] Thus, this Court is on solid ground in determining that STR's are a commercial use of property which means, in our case, that an STR is a commercial establishment. Therefore, STR's, like all other types of motels, are only allowed in the C-2 District.

The Court also notes that there is nothing to suggest that the Township, when it restricted transient accommodations to Residence District B in 1963, and further restricted transient accommodations to the C-2 commercial district in 1974, suddenly reversed course and intended to permit transient accommodations in *all* residential zoning districts without *any* restrictions.[28]

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[25] *Cambridge Online Dictionary.*

[26] *Black's Law Dictionary* (5th ed).

[27] *Aldrich v Sugar Springs Prop Owners Ass'n*, 345 Mich App 181, 192; 4 NW3d 751 (2023). This is also consistent with the definition of a Non-Commercial Organization as defined in the 1974 Zoning Ordinance. This was simply an organization "which does not produce an income for any person." STR's produce income.

[28] As mentioned, appellants argue that they may even rent their properties on an hourly basis. In other words, appellants argue that there are virtually no restrictions to whom or for how long properties may be rented. A reading of the ordinance combined with common sense and logic preclude the conclusion that the Township intended the municipality to become the "wild west" of rentals in 2003.

Prior Administrative Interpretations by Township Employees

The Township created a ZBA which has the power to:

> (1) [H]ear and decide appeals from and review any order, requirement, decision or determination made by an administrative official or body charged with enforcement of this division. . . .
>
> (2) The jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this division . . . .[29]

A zoning board of appeals has the power to interpret the zoning ordinance which it must administer.[30] In reviewing administrative zoning decisions courts employ the following:

> In cases of ambiguity in a municipal zoning ordinance, the past practical construction over an extensive period by the officer or administrative agency charged with its administration is to be accorded great weight in determining its meaning. However, an administrative construction is not binding on the court, which is free to overrule the construction if it is deemed to be wrong or erroneous.[31]

As stated earlier, the ZBA has *never* interpreted the issue of short-term rentals. Zoning administrators, while having discretion in enforcement matters, do not have the authority to re-write ordinances or usurp the authority of the ZBA. Rather, the ZBA reviews the decisions of the zoning administrator. It is the ZBA that holds ultimate administrative interpretation of the Zoning Ordinance. Therefore, neither the ZBA nor this Court are bound by a history of erroneous statements by zoning administrators.

Again, appellants' concession that the 1974 Zoning Ordinance equated STR's with motels is telling. That concession renders anecdotal stories of the legality of prior STR's between 1974 and 2003 irrelevant. Reliance on opinions or thoughts about STR's during this 30-year time frame is unsupported by law. Failing to study or analyze, with resultant misunderstanding of an ordinance, does not render that ordinance ambiguous. Any alleged ambiguities in the zoning ordinances are quickly resolved using statutory analysis, as shown above. This Court must interpret

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[29] Township Zoning Ordinance Sec 38-65 and 38-66.

[30] *Sinelli v Birmingham Bd of Zoning Appeals,* 160 Mich App 649, 652; 408 NW2d 412 (1987).

[31] *Id.*

the ordinances as written. That zoning administrators misinterpreted these ordinances through ignorance, indifference, or incompetence is irrelevant.

Appellants complain that the ZBA retroactively applied present-day concepts to decades-old definitions. However, it appears that the zoning administrators were guilty of this. That is, by their opinions, they seemed to be unfamiliar with "older" terms like "tourist homes," so those definitions were ignored. They then seemed to insert their own definition of "motel" based upon personal expectations, as opposed to the words used in the Zoning Ordinance. That a building rented to transient guests did not have a flat roof, visible vending machines, and a pink/purple neon "vacancy" sign containing burned out bulbs does not mean that a building is not a motel as defined within the Zoning Ordinance. Regardless, the prior zoning administrators, and other Township employees, made conclusory statements devoid of context or meaningful analysis.[32] The ZBA properly ignored those erroneous personal opinions.

Conclusion

A plain reading of the 1963 Zoning Ordinance establishes that STR's were allowed in Residence District B, under the label "tourist homes." An STR was only allowed in Residence District A if the STR was specifically authorized as a motel by the Board of Appeals.

A plain reading of the original 1974 Zoning Ordinance establishes that STR's were only permitted in the C-2 Resort Service. Where a resident occupies the STR with the transient guest, the building is a tourist home and is limited to the C-2 district. As conceded by appellants, where a resident does not occupy the STR with the transient guest, the building is a motel and is also limited to the C-2 district.

The 2003 amendment to the 1974 Zoning Ordinance changed the definition of "motel." However, STR's still squarely fit within the definition of a motel because they are commercial establishments "which offer lodging accommodations and sleeping rooms to transient guests in return for payment." In addition, there is no evidence to suggest that the Township intended to permit transient accommodations in *all* residential zoning districts without *any* restrictions after

[32] This provides no comfort to some appellants who, in good faith, may have presented their questions to Township authorities.

restricting, and then removing, transient rooms and housing from all residential districts in 1963 and 1974, respectively.

Finally, prior erroneous statements by zoning administrators are not legally binding on either the ZBA or this Court. This Court must ignore those statements because they conflict with an unambiguous Zoning Ordinance. Zoning administrators and Township employees do not have the authority to enact or modify ordinances, only the Township Board may enact ordinances and the ZBA has final administrative interpretation of zoning ordinances. The ZBA did not err.

AFFIRMED

IT IS SO ORDERED,

November 4, 2025

Hon. Jon Hulsing

THIS IS A FINAL ORDER.