

**COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT
OF THE TRIAL COURT**

NANTUCKET, ss.

22 MISC 000064 (MDV)

CATHERINE S. WARD,

Plaintiff,

v.

THE TOWN OF NANTUCKET;
NANTUCKET ZONING BOARD OF
APPEALS; SUSAN MCCARTHY, et al., as
they are members of the Nantucket Zoning
Board of Appeals; PETER A. GRAPE; and
LINDA OLIVER GRAPE,

Defendants,

and

RALPH KEITH and BONNIE KEITH, as
trustees of the Delaney Keith Trust,

Intervenors/Defendants.

JUDGMENT

Plaintiff Catherine S. Ward sued defendants Town of Nantucket (the “Town”), the Nantucket Zoning Board of Appeals and its members (the “ZBA”), Peter A. Grape, and Linda Oliver Grape (together with Peter A. Grape, the “Grapes”) in this Court on February 8, 2022. Ward’s complaint contained two substantive counts. In Count I, Ward asked this Court under G.L. c. 40A, § 17, to annul the ZBA’s November 22, 2021, decision (the “ZBA Decision”) upholding the Nantucket Building Commissioner’s refusal to order the Grapes to cease using 9 West Dover Street in Nantucket (the “Grape Property”) for short-term rentals (or “STR”). In Count II, Ward asked the Court to declare under G.L. c. 240, § 14A, that (a) “the manner in which the [Grape] Property is used as an STR is a transient residential facility, and therefore a commercial use prohibited in the ROH [Residential Old Historic] district”; and (b) “use as an STR is an unlawful use of the [Grape] Property under applicable zoning.”

On March 14, 2022, the Town and the ZBA answered the Complaint, denying Ms. Ward’s claims and challenging her standing to bring them. On March 30, 2022, the Grapes

answered Count II of the Complaint, denying Ward’s claims. On April 4, 2023, the Court granted without opposition the motion of Ralph Keith and Bonnie Keith, as trustees of the Delaney Keith Trust, to intervene as parties defendant. They too denied Ward’s claims.

The parties thereafter moved and cross-moved for summary judgment. By order dated September 13, 2023, the Court denied those motions, owing to disputed issues of fact concerning Ward’s standing. The parties appeared for trial December 12, 2023, and January 3, 2024. For the reasons set forth in the Court’s Findings of Fact and Conclusions of Law, issued this same date, the Court hereby

- A. **ORDERS, ADJUDGES, and DECLARES**, that judgment enters in FAVOR of plaintiff Catherine S. Ward, and AGAINST defendants Nantucket Zoning Board of Appeals and its members (the “ZBA”), Peter A. Grape, and Linda Oliver Grape (together with Peter A. Grape, the “Grapes”), on Count I of Ward’s Complaint;
- B. **ORDERS, ADJUDGES, and DECLARES**, that judgment enters in FAVOR of Ms. Ward, and AGAINST defendants Town of Nantucket and the Grapes, and intervenors/defendants Ralph Keith and Bonnie Keith, as trustees of the Delaney Keith Trust, on Count II of Ward’s Complaint;
- C. **ORDERS, ADJUDGES, and DECLARES**, that the November 22, 2021, decision of the ZBA on Ms. Ward’s zoning appeal (the “Zoning Appeal”) is ANNULLED;
- D. **ORDERS** that the Zoning Appeal is REMANDED to the ZBA for further proceedings (beginning no later than 45 days after entry of this Judgment) that are consistent with this Judgment and the Court’s Findings of Fact and Conclusions of Law; and
- E. **ORDERS, ADJUDGES, and DECLARES**, that the Town’s Zoning Bylaw does not allow short-term rentals as a principal use of a “primary dwelling” in the Town’s Residential Old Historic district.

SO ORDERED.

By the Court (Vhay, J.)

/s/ Michael D. Vhay

Attest:

/s/ Deborah J. Patterson

Deborah J. Patterson, Recorder

Dated: March 14, 2024