

Commonwealth of Massachusetts
County of Hampden
The Superior Court

Civil Docket HDCV2008-00843

RE: Frei v Town Clerk of the town of Holland et al

TO: Peter K Frei
101 Maybrook Road
Holland, MA 01521

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on **01/28/2009**:

RE: Defendants and all other interested parties MOTION to Dismiss (MRCP 12b) Complaint of Peter K Frei

is as follows:

(P#22)(dated 1/15/09) ALLOWED all below. The plaintiff is not an abutter to the subject real estate) thus all other evidence need be determined in assessing the "standing" status of the plaintiff. There is no "particularized" injury to the plaintiff that he raises, or for that matter to his property. (There is required) some infringement (that) must cause an injury particular to the plaintiff and not merely a concern general to the community." The court need not consider the procedural requirement deficit averred by the defendant. Bell vs. Zoning Board of Appeals of Gloucester 429 Mass. 551, 554. (Peter A. Velis, Justice).

Dated at Springfield, Massachusetts this 28th day of January, 2009.

Brian P. Lees,
Clerk of the Courts

BY:

Lois Scibelli
Assistant Clerk

Telephone: 413 735-6017

Copies mailed 01/28/2009

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, ss.

Superior Court Department
Civil Action No.: 08-843

PETER K. FREI,
Plaintiff

v.

TOWN CLERK, PLANNING BOARD,
and ZONING BOARD OF APPEALS,
of the Town of Holland,
Defendants

HAMPDEN COUNTY
SUPERIOR COURT
FILED

NOV 17 2008

*Allowed
see below
Veleno
1/15/09*

BH
[Signature]
CLERK

DEFENDANTS' MOTION TO DISMISS

BH f/m/29/09

Now come the Defendants in the above-captioned matter, through their respective counsel, and hereby move to dismiss the Plaintiff's complaint in this matter as to all of the Defendants pursuant to Mass. Rule Civ. Pro. 12(b)(6).

The basis for this Motion to Dismiss is articulated in the Memorandum of Law filed simultaneously herewith.

WHEREFORE, the Defendants move for dismissal of the complaint in its entirety.

*The Plaintiff is not
an owner to the
subject real estate
therefore all other
evidence need be
determined in assessing
the standing in assessing
of the Plaintiff's status
to the planning board
[There is no injury
matter to his property
course on injury] some
to the Plaintiff, and not
merely a concern
general to the
community."*

B.H. f/m/29/09

*The court need
not review
the procedural
defects
of the Plaintiff.*

*Ballou Zoning Board
129 Mass. 511
22*

rank for hearing