
LEGAL UPDATE

Legal Services Division



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

Iowa Supreme Court Decision — Vested Rights in Unzoned Areas

Legal Updates, prepared by the nonpartisan Legal Services Division of the Legislative Services Agency, provide summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic and are intended for use primarily by legislators, legislative staff, and other persons interested in legislative matters. The reader is cautioned against using information contained in a legal update to draw conclusions as to the legality of a particular behavior or set of circumstances and should not be interpreted as advocating a particular course of action.

Worthwhile Wind LLC v. Worth County Board of Supervisors **Filed April 24, 2026** **No. 24-1813**

Factual and Procedural Background. Beginning in 2018, Worthwhile Wind LLC (Worthwhile), an affiliate of Invenergy, LLC, undertook development activities for a commercial wind energy conversion system project in Worth County. The proposed project involved the construction of as many as 55 commercial wind turbines across approximately 100 parcels capable of generating 165 megawatts of electricity. Prior to 2021, much of Worth County was unzoned and no countywide ordinance regulated commercial wind energy conversion systems in those unzoned areas. Worthwhile undertook preliminary development activities including environmental and engineering studies, sound and shadow flicker analyses, execution of wind easement agreements with over 100 landowners, and the filing of an application with Midcontinent Independent System Operator (MISO). Worthwhile also erected two meteorological towers and excavated two locations for "seal slabs" for future turbine foundations. Worthwhile alleged that it expended approximately \$2.8 million on the project prior to the county's enactment of a wind energy moratorium, excluding approximately \$3.8 million in MISO interconnection deposits.

At no point prior to enactment of the moratorium and subsequent ordinance did Worthwhile apply for or obtain county permits or other governmental approval to construct or operate commercial wind turbines.

In April 2021, after a change in public sentiment regarding wind energy development, the Worth County Board of Supervisors (Board) adopted a temporary moratorium on commercial wind energy conversion systems pending development of updated regulations. On June 27, 2022, the Board enacted a countywide ordinance regulating commercial wind energy conversion systems. The ordinance imposed setback requirements, turbine height limitations, noise restrictions, and shadow flicker standards.

Without attempting to modify the project to comply with the new ordinance, Worthwhile filed a declaratory judgment action asserting that it had acquired vested rights to complete the project under the county's prior law and further alleging that the county acted in bad faith by adopting the moratorium and ordinance to prevent the project from proceeding. Following a bench trial, the district court ruled in favor of Worthwhile and determined that Worthwhile had vested rights in the project and that the county acted in bad faith. The district court ordered that Worthwhile could complete development of the project pursuant to the law existing prior to adoption of the moratorium and ordinance. The county appealed.

Issues.

1. Whether a wind energy developer acquires vested rights in a project absent obtaining a permit or other governmental approval prior to enactment of a zoning ordinance.
2. Whether Worth County acted in bad faith in adopting a moratorium and ordinance regulating commercial wind energy conversion systems.

Holding. In a 6-1 decision, the Iowa Supreme Court reversed the district court's decision and held that Worthwhile did not acquire vested rights in the project because it never obtained a permit or other governmental authorization to proceed with construction of the wind energy conversion system project. The Court further held that Worthwhile failed to establish that Worth County acted in bad faith in adopting the moratorium and ordinance.

Analysis. The Court explained that Iowa generally applies zoning laws as they exist at the time of the governmental decision. *U.S. Cellular Corp. v. Bd. of Adjustment*, 598 N.W.2d 712, 717 (Iowa 1999). The Court noted two recognized exceptions to this rule, the vested rights exception and the bad faith exception, but also asserted that “[N]o property owner has a vested right in the continuation of a particular zoning classification”. *Quality Refrigerated Servs. Inc. v. City of Spencer*, 586 N.W.2d 206 (Iowa 1998).

With respect to vested rights, the Court reviewed Iowa precedent and concluded that vested rights arise only when a developer or owner has obtained a valid permit, approved plat, or other formal governmental authorization and has substantially relied upon that authorization, also asserting “that purely private expenditures, made without any form of engagement with the administrative arm of the local governments, either by submission of an application for approval or by receiving some sort of approval to proceed, are not sufficient to support a claim for vested rights”. The Court determined that Worthwhile's vested rights claim failed as a matter of law, since they never obtained county approval to construct or operate commercial wind turbines and that the only permit obtained was for a meteorological tower (MET). The Court stated that the MET is not the project and that the permit did not establish a vested right to construct dozens of commercial wind turbines across 100 parcels.

The Court rejected Worthwhile's argument that requiring governmental approval as a predicate to vesting produces absurd results and that if this is the case, a developer could never acquire vested rights, regardless of the size of the investment. The Court reasoned that expenditures made without governmental approval do not create settled expectations protected under the vested rights doctrine and that local governments retain authority to enact zoning regulations in previously unzoned areas. The Court states if it were to accept Worthwhile's positions, “any property owner or developer could insulate itself from lawful regulation merely by directing expenditures toward a project in an unzoned area of a municipality” which would effectively strip local governments of their power to regulate land use. The Court also points out that the bad faith doctrine, the Contracts Clause, the Due Process Clause and the Takings Clause of the State of Iowa and Federal Constitutions are additional protections that provide alternative avenues of relief against certain government actions, but none are implicated in this case. The Court also emphasized that the proposed project remained largely undefined because Worthwhile had not selected turbine models, determined the exact number of turbines, or purchased turbines prior to enactment of the ordinance.

Regarding bad faith, the Court explained that Iowa law requires proof of both illegality and improper purpose. *Geisler v. City Council*, 769 N.W.2d 162, 168 (Iowa 2009). The Court determined that the ordinance imposed traditional land use regulations relating to setbacks, height limitations, noise restrictions, and shadow flicker standards that were routinely adopted in exercise of a county's police powers and was enacted for purposes related to the general health, welfare, and property rights of the county's citizens. The Court further found that the Board considered substantial materials before enacting the ordinance and that the record did not demonstrate illegality or arbitrary governmental action.

Although the Court acknowledged that the moratorium resolution referenced “a wind energy company” that had obtained easement rights from landowners, a reference Worthwhile claimed is specifically directed at their project, the Court concluded that awareness of a proposed development project was “not sufficient to overcome the strong presumption of validity that attaches to legislative zoning decisions”. The Court noted that more than one year elapsed between enactment of the moratorium and adoption of the ordinance and that the county engaged in negotiations with Worthwhile during that period, demonstrating that the county was willing to engage with Worthwhile. The Court also examined the restrictiveness of the ordinance that Worthwhile asserted resulted in 98.2 percent reduction in buildable acreage, assuming the maximum allowable height of 500 would be used, which the Court acknowledged as a factor, but not dispositive. However, the Court discussed that shorter turbines could be used and there was no analysis of possible

alternatives conforming to the new ordinance. The Court concluded that the county's actions were consistent with a legitimate interest in ensuring that an adequate regulatory framework was in place before development proceeded with wind energy projects rather than an improper attempt to target a specific developer.

Dissent. Justice McDermott dissented, and concluded that Iowa precedent does not require a permit as a prerequisite for vested rights where no permit was required under existing law and argued that Worthwhile's expenditures and development activities were sufficiently substantial to establish vested rights under prior Iowa cases.

LSA Staff Contact: Seth Bohstedt, 515.281.8871 or seth.bohstedt@legis.iowa.gov