

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER
APPEAL OF ADMINISTRATIVE DECISION
PETITION NO. PLNAPP 2018-00731
568 South 900 East
PUBLIC HEARING HELD MARCH 14, 2019
DECISION ISSUED APRIL 1, 2019

This appeal addresses the question of whether Salt Lake City ordinance allows artificial turf to be installed in front yards and parking strips in the low density multi-residential zone. Mathew and Jessica Boardman (“the Appellants”) requested a de novo review of the administrative finding that such turf is not allowed and the resulting citation requiring them to re-plant their front yard and parking strip.

On March 14, 2019, a public hearing was held on this matter and appearances were made by the Appellants along with representatives of Salt Lake City. Public comment was heard from residents of the neighborhood and other individuals who wished to express support of the allowance of artificial turf. The Public Hearing along with the written submissions of the parties, neighbors and the staff report prepared by Salt Lake City form the basis for this review.

Although Salt Lake City issued an administrative decision on this matter, this hearing is de novo, with no deference given to the previous interpretation and findings. *Salt Lake City Code* Section 21A.16.030 (E1).

The Appellants raise four issues; (1) that materially relevant information regarding landscaping was unavailable to the public, (2) that the ordinance is ambiguous as to artificial turf, (3) that the ordinance, to the extent it forbids artificial turf is outdated and incorrect and (4) that there was no public hearing on the issue of artificial turf.

The ordinances governing front yard and parking strip landscaping involve both regulations and definitions setting forth the meaning of relevant terms. Although not all parts of the relevant ordinance are in the same place in the City Code, the information is present, so the rules are not unavailable.

The provisions governing front yards talk about “landscape yards” and specifically reference the definition of terms. 21A.48.090. The ordinance describes how much of the front yard should be covered in live plant material and indicates “Mulches such as organic mulch, gravel, rocks and boulders shall be a minimum depth of three inches to four inches...dependent on the material used to control weeds and erosion in unplanted areas and between plants...” *Id.* And mulch is further defined as “Any organic material such as leaves, bark, straw, compost or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.” 21A.62.040. Although reading the ordinance requires moving between the rules themselves and definitions, this does not make the information unavailable.

While having slightly different language, the provisions governing park strips are essentially the same, requiring plant material and allowing hard surface material or “gravel, rocks and boulders.” 21A.48.060.E. The ordinance states that “The intent of this section is to provide a palette of allowed plant, organic and/or natural materials that allow for creative landscaping, maintain a healthy street tree canopy, and create an attractive pedestrian environment while encouraging actual, not merely perceptual, water conservation. In many instances, a water wise turf grass/sod remains the most effective park strip plant material.” The definition of turf specifically excludes “inorganic substitutes.” *Id.*

The Appellants also claim that the ordinance is plagued by “ongoing ambiguity,” which is connected to the first argument, and essentially asserts that because of the structure of the ordinance and manner in which artificial turf is excluded, that the rules are difficult to ascertain and could be subject to a reading where artificial turf is allowed. This is not the case.

Although artificial turf is not banned by name in parking strips and front yards, it is not on the list of allowable materials set forth in the ordinance and the definitions. And while it might have been helpful for the City to create a list specifying all forbidden treatments, it was a reasonable policy to reference allowed materials, which provides for a smaller list and does not create the worry that any one thing has been left out. Moreover, while it might have been helpful for the City to create a legal framework where words such as “artificial turf” could be searched or Googled, it has no legal obligation to do so where the information is present and organized in the relevant section of the ordinance.

Because the relevant information is present in the landscaping and definition provisions of the Ordinance, there is not lack of clarity sufficient to find the ordinance legally ambiguous.

As their third argument, Appellants indicate that to the extent the rules forbid artificial turf in front yards and parking strips, those rules are inconsistent with public policy and particularly inconsistent with policies favoring water-wise landscaping. Because the Appeals Authority has no jurisdiction to make policy decisions, these arguments cannot be addressed herein and should be addressed to the City Council or Planning Commission. Salt Lake City Code Section 21A.06.040 (B)(1).

Fourth, Appellants argue that the City’s rules on artificial turf were not subject to a public hearing. All City ordinances are adopted following hearings before the City Council and where appropriate, the Planning Commission. Because the language governing landscape treatments is present in City ordinances, the rules would have been subject to public input and debate through the normal City legislative process. Appellants have presented no evidence that the ordinances in question were not heard in the normal course of business. As a result, this argument is without merit.

Based on the substantial evidence in the record, described above, the administrative interpretation of the Salt Lake City code provisions relating to landscaping in front yards and parking strips is upheld. Consequently, the appellant must comply with the Salt Lake City enforcement order requiring removal of the artificial turf.

Dated this 1ST Day of April, 2019.

/Mary J. Woodhead/

Mary J. Woodhead, Appeals Hearing Officer