

# *Wheelan v. City of Gautier:* Reducing the Power of Local Authorities in Mississippi

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## Interpretation of City Ordinances in Mississippi

Until recently, the power to interpret local ordinances in Mississippi lay largely in the hands of local authorities. Whether a violation of a local ordinance occurred was determined by how a county board, city council, or board of aldermen interpreted and applied the ordinance to the facts of the alleged violation. Mississippi courts could only interfere with a local authority's enforcement of an ordinance if the local authority's decision regarding a violation was "arbitrary, capricious, discriminatory, illegal, or without [a] substantial evidentiary basis."<sup>1</sup> As long as the local authority's decision was "fairly debatable," the Court would give deference to said authority's interpretation of the ordinance.<sup>2</sup>

The Mississippi Supreme Court's decision in *Wheelan v. City of Gautier* in February 2022, however, did away with the Court's practice of giving deference to local authorities' interpretation of ordinances. Instead of analyzing whether a local authority's interpretation is "fairly debatable," the Court will now simply review whether the local authority's decision was correct given the ordinance's language and the law governing interpretation of ordinances.<sup>3</sup> Accordingly, *Wheelan* has created a heightened standard for local authorities' interpretation of ordinances and has rendered their interpretation meaningless in cases involving a dispute over an ordinance's interpretation.

## What is Deference?

The term "deference," as used by Mississippi courts, refers to the idea that certain matters are best understood by the entities involved—whether those be county boards, city councils, boards of aldermen, etc.—and their decisions on such matters should therefore be enforced in most cases. The Mississippi Supreme Court has stated that deference "derives from our realization that the everyday experience

of the [local authority] gives it familiarity with the particularities and nuances of the problems committed to its care which no court can replicate."<sup>4</sup> Deference, therefore, stands for the proposition that courts should allow certain matters to be addressed by those best equipped to appropriately address them.

## *Wheelan v. City of Gautier*

Central to the dispute in *Wheelan* was the City of Gautier's (City) interpretation of an ordinance governing the maximum percentage of a lot that may be covered by buildings. The ordinance states in Section 5.4.4(F) that the maximum lot coverage allowed is "twenty-five (25) percent for the principal structure and accessory structures," and that "accessory structures shall not exceed twenty (20) percent of the rear lot area or fifty (50) percent of the main building area, whichever is less."<sup>5</sup>

This ordinance was relevant because the City's Building Department denied David Vindich's application to build a 1,410-square-foot workshop near his 2,843-square-foot house on his 0.76-acre lot. He had already built several accessory structures on the property which totaled 1,129 square feet. The Building Department interpreted the phrase "main building area" to mean the size of Vindich's house, which would have allowed only 293 square feet for the workshop after accounting for the other accessory structures — far less than what Vindich had planned. Vindich appealed the decision to the Planning Commission, which ultimately voted to let him build the workshop based on its interpretation of the ordinance. The Planning Commission interpreted "main building area" to mean the entire lot, which would have allowed roughly 1,600 square feet for the workshop. The City Council then accepted the Planning Commission's interpretation, approved its decision, and granted Vindich the building permit.



Credit: City of Gautier, Mississippi

Martin Wheelan, Vindich's neighbor, took issue with the workshop's construction because he believed that it violated the ordinance. Wheelan filed a lawsuit against the City alleging – among other claims – that the City's interpretation of the ordinance and its decision to grant Vindich the building permit was "arbitrary and capricious." Both the Jackson County Chancery Court and the Mississippi Court of Appeals dismissed Wheelan's claims, upholding the City's decision. The Mississippi Court of Appeals noted the deference normally given to local authorities in interpreting statutes, stating, "because the authority to interpret the wording of an ordinance is vested in the City Council and because the interpretation of the Unified Development Ordinance was debatable, the City Council's actions were not arbitrary, capricious, or manifestly unreasonable."

The Mississippi Supreme Court, however, took a different approach to the issue. Although determining whether the City's interpretation was "arbitrary, capricious, or manifestly unreasonable" such that its decision was not fairly debatable was the relevant analysis prior to this case, the Court decided to completely throw out that analysis. Instead, the Court changed the analysis to whether the local authority's interpretation was "correct" in light of the ordinance's language and the law governing interpretation of ordinances.<sup>7</sup>

The Court applied its new approach to the City's interpretation of Section 5.4.4(F). The Court found that the City's interpretation "of its ordinance [] renders meaningless other parts of the same ordinance," making the interpretation not "correct."<sup>8</sup>

There are two restrictions within the ordinance as recited earlier. The first part restricts lot coverage from buildings to 25 percent of the size of the lot for the principal structure *and* accessory structures. The second applies only to accessory structures. Accessory structures may not exceed 20 percent of the rear lot area or 50 percent of the main building area, whichever is less.

The City interpreted the "main building area" from the second part to mean the entire lot, rather than the size of the residence (the main building). The Court found that interpretation would render the 50 percent limit on accessory structures meaningless.<sup>9</sup> If the City's interpretation were true, the 25 percent limitation from the first part would apply in every situation that would have considered the 50 percent limit, making the 50 percent limit pointless.<sup>10</sup> Further, the interpretation would make the second part internally inconsistent. The Court found that under the City's interpretation, accessory structures would be allowed only on 20 percent of the rear lot area because "twenty percent of the rear lot area will always be less than fifty percent of the entire lot."<sup>11</sup>

Accordingly, because the City’s interpretation of Section 5.4.4(F) rendered other parts of the ordinance meaningless, the Court held that the City erred in its interpretation and reversed and remanded the case back to the Jackson County Chancery Court to vacate the building permit.

The Court’s decision to do away with the practice of giving deference to local authorities’ interpretations of local ordinances is notable because it disregards the informed decisions made by those that may best understand how to address certain situations and places it in the Court’s hands. Additionally, the Court’s decision may show its opinion that the courts, not cities, are best suited to interpret ordinances, because it could have simply found the City’s interpretation arbitrary and capricious instead of discarding the deference standard altogether.

### How do the Other Gulf States Treat Local Authorities’ Interpretations?

With its departure from the deference standard, Mississippi has now entered the minority of states bordering the Gulf of Mexico in how their courts treat local authorities’ interpretations of local ordinances. Alabama, Florida, and Texas courts use the deference standard while Mississippi and Louisiana are now the only gulf states that do not.<sup>12</sup>

To the east of Mississippi, Alabama courts recognize the value in deferring to the interpretations of local authorities concerning local ordinances. The Alabama legislature has granted local authorities the power to create and enforce ordinances, and courts defer to their interpretations of their ordinances “to ensure uniformity of decisions in light of the agency’s specialized competence.”<sup>13</sup> Alabama courts hold the same view discarded by Mississippi courts when *Wheelan* was decided: local authorities are the best equipped to handle local problems because they are involved in the everyday function of the locality, which gives them “specialized competence” in being able to understand their problems that courts do not have. The deference Alabama courts will give to a local authority’s interpretation of a local ordinance has limits, however. Similar to Mississippi’s old standard where courts could only interfere with a local authority’s enforcement of an ordinance if the local authority’s interpretation was “arbitrary, capricious, or manifestly unreasonable,” Alabama courts will not defer to the local authorities’ interpretation if “it appears that the agency’s interpretation is unreasonable or unsupported by the law.”<sup>14</sup>

### Conclusion

In summation, the *Wheelan* decision is notable because it established a new standard for Mississippi courts to use in resolving disputes over ordinance interpretation that is not used by most of the other gulf states. Further, it trims local authorities’ power to enforce the meaning they give to their ordinances and places that interpretation power in court’s hands. *Wheelan’s* message is clear: courts – not local authorities – are in the best position to interpret local ordinances. 🐦

### Endnotes

1. *Hatfield v. Bd. of Supervisors of Madison Cnty.*, 235 So. 3d 18, 21 (Miss. 2017) *overruled by* *Wheelan v. City of Gautier*, 332 So. 3d 851 (Miss. 2022) (quoting *Drews v. City of Hattiesburg*, 904 So. 2d 138, 140 (Miss. 2005) (brackets in original)).
2. *Id.*
3. *Wheelan v. City of Gautier*, 332 So. 3d 851, 860 (Miss. 2022).
4. *Gill v. Mississippi Dept. of Wildlife Conservation* 574 So. 2d 586, 593 (Miss. 1990) (alteration in quote).
5. *Gautier, Miss., Unified Development Ordinance § 5.4.4(F)* (2009).
6. *Wheelan*, 332 So. 3d at 855.
7. *Id.* at 859.
8. *Id.* (citing *Hemphill Constr. Co. v. City of Clarksdale*, 250 So. 3d 1258 (Miss. 2018)).
9. *Id.* at 860-61 (referring to the dissent in the *Wheelan* Court of Appeals decision).
10. *Id.*
11. *Id.*
12. *See* *Ex parte Chestnut*, 208 So. 3d 624, 640 (Ala. 2016) (“A reviewing court will accord an interpretation placed on a statute or an ordinance by an administrative agency charged with its enforcement great weight and deference”); *Donovan v. Okaloosa Cnty.*, 82 So. 3d 801, 807 (Fla. 2012) (“The County’s interpretation of its own ordinance is entitled to deference”); *Howeth Invs., Inc. v. City of Hedwig Vill.*, 259 S.W.3d 877, 907 (Tex. App. 2008) (“Courts will generally defer to the interpretation of the agency . . . charged with enforcing an ordinance when that interpretation is reasonable”); *Olde Nawlins Cookery, L.L.C. v. Edwards*, 38 So. 3d 1012, 1016 (La. Ct. App. 2010) (“The proper interpretation of an ordinance is a question of law, reviewed under the *de novo* standard of review”).
13. *Ex parte Chestnut*, 208 So. 3d at 640.
14. *Wheelan*, 332 So. 3d at 852; *Id.*