

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

April 17, 2001

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-0392**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**NANCY HANSON AND LARRY HANSON, D/B/A JOHNNIE B.  
DALTON'S, SAILORS, INC., PARADISE SUPPER CLUB,  
INC. AND RICHARD WARD,**

**PLAINTIFFS-APPELLANTS,**

**V.**

**VILLAGE OF BALSAM LAKE,**

**DEFENDANT-RESPONDENT.**

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APPEAL from a judgment of the circuit court for Polk County:  
ROBERT H. RASMUSSEN, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Nancy and Larry Hanson, d/b/a Johnnie B. Dalton's, Sailors, Inc., Paradise Supper Club, Inc. and Richard Ward (collectively Hanson), appeal a judgment upholding a liquor license issued by the Village of

Balsam Lake to Merlin Fox.<sup>1</sup> Hanson argues that the Village violated both statutory and municipal quotas by issuing Fox a reserve “Class B” liquor license. We reject Hanson’s arguments and affirm the judgment.

¶2 In July of 1999, the Village issued Fox a reserve “Class B” liquor license. Hanson sought injunctive and declaratory relief, arguing that issuance of the license violated municipal and statutory quotas limiting the number of available “Class B” liquor licenses. After a hearing, the circuit court denied Hanson’s request for injunctive and declaratory relief. This appeal followed.

¶3 With respect to the statutory quota, Hanson contends that WIS. STAT. § 125.51 is ambiguous or, alternatively, that there was an error in drafting the statute because the legislature’s intent was to reduce the number of liquor licenses. We are not persuaded.

¶4 The construction of statutes and their application to a particular set of facts are questions of law that we review de novo. *State v. Isaac J.R.*, 220 Wis.2d 251, 255, 582 N.W.2d 476 (Ct. App. 1998). The aim of statutory construction is to ascertain the legislature’s intent, and our first resort is to the statutory language itself. *Id.* If the words of the statute convey the legislative intent, that ends our inquiry; we do not look beyond the statute’s plain language to search for other meanings, but simply apply the language to the facts before us. *Id.* at 255-56. It is only when the language of the statute is ambiguous that we examine the statute’s scope, history, context, subject matter, and the object in order to ascertain the legislative intent. *Id.* at 256. A statute is ambiguous when it

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<sup>1</sup> Fox was dismissed in the underlying action as an unnecessary party pursuant to WIS. STAT. § 125.12(2)(d). All statutory references are to the 1999-2000 version unless otherwise noted.

is capable of being understood by reasonably well-informed persons in two or more different senses. *Id.* Whether a statute is ambiguous is a question of law. *Awve v. Physicians Ins. Co.*, 181 Wis. 2d 815, 822, 512 N.W.2d 216 (Ct. App. 1994).

¶5 With the enactment of WIS. STAT. § 125.51(4), the legislature created the category of “Reserve ‘Class B’ licenses.” *See* 1997 Wis. Act 27 § 2907. Unlike other licenses, the reserve “Class B” license requires a \$10,000 initial fee and cannot be moved from place to place within a municipality. In addition to creating the category of reserve “Class B” licenses, the legislature set forth a specific formula establishing a quota to limit the number of reserve “Class B” licenses available for issuance by a municipality. Under this formula, any municipality with unissued licenses lost a portion of them,<sup>2</sup> thus satisfying any legislative intent to reduce the number of available licenses. Those without unissued licenses, like the Village, could obtain a reserve “Class B” license only upon an increase in population. Specifically, the statute allows the issuance of one reserve “Class B” license for “each increase of 500 population or fraction thereof.” WIS. STAT. § 125.51(4).

¶6 Under the statute, “population” is defined as “the number of inhabitants in the previous year determined by the department of administration ... for purposes of revenue sharing distribution.” In a letter dated October 10, 1997, the Village’s clerk estimated the population as of January 1, 1997, to be 843. In a letter dated October 10, 1998, the clerk estimated that the population as of

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<sup>2</sup> The remaining portion of unissued licenses remains available for issuance as reserve “Class B” licenses. *See* WIS. STAT. § 125.51.

January 1, 1998, increased to 844. Because the population increased, issuance of the reserve “Class B” liquor license to Fox was permissible under the statute.

¶7 Hanson also argues that issuance of the license violated the Village’s municipal quota. It is undisputed that in 1992, the Village board “seconded and carried” an oral motion to limit beer and liquor sale licenses to the number of licenses already issued—at that time, five. The board’s action, however, was never reduced to an ordinance or a resolution, was never published, and thus did not have the force of law to bind the Village. Moreover, even were we to conclude that the board’s 1992 action imposed an enforceable municipal quota, the board’s action did not contemplate the subsequent creation of the “reserve ‘Class B’ license.” We therefore conclude that the Village did not violate any municipal quota by issuing the reserve “Class B” liquor license to Fox.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

