

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

PATRICIA A. ANDWAN,	:	APPEAL NO. C-170673
Plaintiff-Appellant,	:	TRIAL NO. A-1705423
vs.	:	<i>JUDGMENT ENTRY.</i>
VILLAGE OF GREENHILLS,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In October 2017, plaintiff-appellant Patricia Andwan filed a complaint for injunctive relief and a temporary restraining order to prevent defendant-appellee Village of Greenhills from demolishing four buildings that it owned. Andwan alleged, among other things, that the demolition of the four buildings had the potential to negatively affect the value of her property. Andwan was ultimately concerned that Greenhills was destroying historic structures that made up the Greenhills Historic District, an area designated a National Historic Landmark by the United States Secretary of the Interior in 2017. In her prayer for relief she requested the court to require Greenhills to adopt a process by which the public can participate in the decision to demolish buildings within the Greenhills Historic District.

The trial court denied her request for a temporary restraining order. Andwan then filed an amended complaint, which Greenhills moved to dismiss for lack of

standing and for failure to state a claim upon which relief may be granted. The trial court agreed with Greenhills and dismissed Andwan's amended complaint. Andwan moved the court to reconsider, which the court denied. Andwan filed motions to stay the demolition, which the court also denied.

Andwan now appeals, asserting five assignments of error challenging the trial court's final judgment dismissing her amended complaint. Apart from her assignments of error, Andwan asserted in her appellate brief that the four buildings subject to demolition have since been demolished. Therefore, based on the record before us, we must dismiss her appeal as moot.

Issues of mootness are questions of law that we review de novo. *See S. Cent. Ohio Preservation Soc. v. Chillicothe Design Rev. Bd.*, 4th Dist. Ross No. 15CA3500, 2016-Ohio-1495. An appellate court need not consider an issue and may dismiss the appeal when the court becomes aware of an event that has rendered the issue moot. *Cincinnati Gas & Elec. Co. v. Pub. Util. Comm.*, 103 Ohio St.3d 398, 2004-Ohio-5466, 816 N.E.2d 238, ¶ 15. "A case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." (Internal quotations omitted.) *Los Angeles Cty. v. Davis*, 440 U.S. 625, 631, 99 S.Ct. 1379, 59 L.Ed.2d 642 (1979). "It is not the duty of the court to answer moot questions, and when pending proceedings * * *, an event occurs * * *, which renders it impossible for the court to grant any relief, it [must] dismiss the petition." *Miner v. Witt*, 82 Ohio St. 237, 92 N.E. 21 (1910), syllabus; *see Tschantz v. Ferguson*, 57 Ohio St.3d 131, 133, 566 N.E.2d 655 (1991) ("Ohio courts have long exercised judicial restraint in cases which are not actual controversies. No actual controversy exists where a case has been rendered moot by an outside event").

More pertinently, it is well settled that "any appeal or action challenging the demolition of a building is rendered moot when a stay is not obtained and the building is

OHIO FIRST DISTRICT COURT OF APPEALS

demolished during the pendency of the proceeding.” *Chillicothe Design*, 4th Dist. Ross No. 15CA3500, 2016-Ohio-1495, ¶ 13, citing *Mayfield v. Costanzo & Son Co.*, 8th Dist. Cuyahoga No. 96890, 2012-Ohio-271, ¶ 14; see *Armour v. Luckey*, 9th Dist. Summit No. 10220, 1981 WL 4125, *2 (Aug. 27, 1981); *Pence v. Darst*, 62 Ohio App.3d 32, 574 N.E.2d 548 (2d Dist.1989), fn. 1. In this case, the trial court denied Andwan’s requests to stay the demolition, and it is undisputed that the four buildings in controversy have since been demolished. Accordingly, her appeal is moot.

We note that Andwan also complained there was no notice or hearing or further review possible for Greenhills’s decision to demolish the four government-owned buildings—which in a strained reading could arguably support a due process argument. See generally *Busy Bee Nursery & Preschool, Inc. v. Ohio Dept. of Job & Family Services*, 2018-Ohio-1158, 99 N.E.3d 467, ¶ 9-13 (10th Dist.) (discussing procedural due process). However, notwithstanding the mootness of her appeal, Andwan failed to demonstrate that she met the jurisdictional prerequisite to address the potential merits of her claim. See *Moore v. Middletown*, 133 Ohio St.3d 55, 2012-Ohio-3897, 975 N.E.2d 977, ¶ 22 (discussing standing).

We therefore dismiss the appeal.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

ZAYAS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on August 30, 2019

per order of the court _____.

Presiding Judge