

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EVELYN PROPP,

Plaintiff,

v.

SAUK COUNTY BOARD
OF ADJUSTMENT,

Defendant.

OPINION and ORDER

07-cv-731-bbc

Originally, plaintiff Evelyn Propp brought this civil action for injunctive and declaratory relief in the Circuit Court for Sauk County, Wisconsin for certiorari review of defendant Sauk County Board of Adjustment's refusal to grant her request for a special zoning permit. However, defendant removed the case because plaintiff also asserted a claim under 42 U.S.C. § 1983. After the parties filed cross-motions for summary judgment on the merits (dks. ##12, 15), plaintiff has conceded that her § 1983 claim is not ripe because she failed to exhaust her state remedies. She has moved to dismiss the § 1983 claim and remand the matter to state court to continue certiorari review (dkt. #27), citing Williamson County v. Hamilton Bank, 473 U.S. 172, 186 (1991) ("a claim that the application of government

regulations effects a taking of a property interest is not ripe until the government entity charged with implementing the regulations has reached a final decision regarding the application of the regulations to the property at issue”). Defendant does not contest plaintiff’s motion to dismiss and remand.

Because plaintiff has not completed certiorari review of defendant’s decision, her § 1983 claim is not ripe; her motion to dismiss and remand will be granted. The parties’ cross-motions for summary judgment will be denied as moot.

ORDER

IT IS ORDERED that:

1. Plaintiff Evelyn Propp’s motion to dismiss her claim brought under 42 U.S.C. § 1983 and remand the matter to state court is GRANTED.
2. The cross motions for summary judgment filed by plaintiff (dkt. #12) and defendant Sauk County Board of Adjustment (dkt. #15) are DENIED as moot.
3. The clerk of court is directed to transmit the file to the Circuit Court for Sauk

County, State of Wisconsin.

Entered this 27th day of June, 2008.

BY THE COURT:

Barbara B. Crabb

BARBARA B. CRABB

District Judge