

Bond Case Briefs

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ZONING - RHODE ISLAND

Cigarrilha v. City of Providence

Supreme Court of Rhode Island - May 15, 2013 - A.3d - 2013 WL 2016639

Owner of three-family dwelling brought action seeking declaratory and injunctive relief from city's enforcement of zoning law restricting property to single- or double-family use, claiming the property qualified for legal nonconforming use exception.

The Supreme Court of Rhode Island held that:

- Property was not in use as a three-family residence before the enactment of zoning ordinance and thus did not qualify for legal nonconforming use exception;
- City's assessment of property taxes upon property based on its use as a three-family residence did not preclude enforcement of zoning laws by operation of equitable estoppel; and
- City's assessment of property taxes upon property based on its use as a three-family residence did not preclude enforcement of zoning laws by operation of laches.

The property did not qualify for a legal nonconforming use exception as the record on appeal was silent as to the use of the property in 1923, and it was property owner's burden to prove that the property was used as a three-family residence before enactment of the zoning law in 1923.

City's assessment of property taxes upon property based on its use as a three-family residence did not, by operation of equitable estoppel, preclude enforcement of single- and double-family residence zoning restrictions, absent evidence showing that city had made any representation which induced property owners to maintain the property as a three-family residence. Property owner benefited from additional rental income, thus negating the injury requirement of equitable estoppel.

City's assessment of property taxes upon property based on its use as a three-family residence did not, by operation of defense of laches, preclude city from enforcing zoning laws that restricted properties to single- or double-family residences. City's imposition of taxes based upon property's actual use did not evince negligent delay in the enforcement of zoning laws, and city promptly enforced its codes once it learned of the property's violations.