
ZONING - KANSAS

Friends of Bethany Place, Inc. v. City of Topeka

Supreme Court of Kansas - August 23, 2013 - P.3d - 2013 WL 4499116

Historic preservation group appealed city's decision to approve church's application to build parking lot on registered historic site owned by church. The District Court set aside the city's decision as arbitrary, capricious, and unreasonable. Church and city appealed. The Court of Appeals reversed district court's judgment and remanded case with directions. Preservation group petitioned for review.

The Supreme Court of Kansas held that:

- Individual owners of property located within 500 feet of historic site were "persons aggrieved" by city's issuance of permit, and, therefore, had standing under Historic Preservation Act to seek judicial review;
- Historic preservation group met traditional test for associational standing to seek judicial review of city's decision to issue permit;
- City council failed to take "hard look" at all relevant factors in regard to possible alternatives, as required under caselaw interpreting Historic Preservation Act, before issuing permit; and
- As matter of first impression, governing body is required, before issuing permit for a project which will encroach upon, damage or destroy historic property, to establish that no feasible and prudent alternatives exist and that all possible planning has been done to minimize harm to the historic property; overruling Allen Realty, Inc. v. City of Lawrence, 14 Kan.App.2d 361, 790 P.2d 948.

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