

Bond Case Briefs

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Salvi v. Village of Lake Zurich

Appellate Court of Illinois, Second District - October 31, 2016 - N.E.3d - 2016 IL App (2d) 150249 - 2016 WL 6461540

Owner of property that was contiguous to lot containing pond filed suit against village and others, arising out of damages from flooding of owner's building.

After claims against other parties were dismissed under settlement agreement, the Circuit Court dismissed claims as barred under Tort Immunity Act, and property owner appealed.

The Appellate Court held that:

- Tort Immunity Act was not defense to property owner's claim for breach of easement agreement and mandamus relief;
- Village owed common law duty of care to property owner with respect to development and maintenance of pond in manner designed to prevent increase in natural flow of surface water onto owner's property;
- Watershed ordinance disclaiming liability for liability resulting from certified community's reliance on ordinance did not immunize village from liability for alleged noncompliance with ordinance; Immunity granted to governmental entity under Tort Immunity Act for failure to enforce any law did not apply;
- Immunity granted to governing entities and their employees under Tort Immunity Act for injuries caused by issuance of permits for improvements to property did not apply;
- Immunity granted to government entities and their employees for injury caused by effect of weather on use of public places did not apply;
- Owner was not third-party beneficiary of easement agreement between village and owners of other lots adjoining pond; and
- Mandamus would not issue to compel village's compliance with agreement.