

Bond Case Briefs

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ZONING & PLANNING - ARIZONA

Pawn 1st, LLC v. City of Phoenix

Supreme Court of Arizona - August 10, 2017 - P.3d - 2017 WL 3428093

Pawn shop operator brought special action complaint challenging decision of zoning board approving a competing business's application for zoning variance from ordinance requiring the exterior walls of a pawn shop to be located at least 500 feet from a residential district.

The Superior Court entered summary judgment in favor of city. Operator appealed. The Court of Appeals reversed and remanded. On remand, the Superior Court affirmed board's decision. Operator appealed. The Court of Appeals reversed and remanded. City petitioned for review.

The Supreme Court of Arizona held that:

- Variance was an area variance, not a use variance;
- City acted within its discretion in finding that sufficient "special circumstances" applied to property on which competing pawn shop sought variance;
- Special circumstances that applied to competing pawn shop's property were not self-imposed, for purposes of the prohibition against self-imposition; and
- An applicant or owner's selection of a property, even with knowledge that an area variance is required for an intended use allowed on other similarly zoned properties, does not itself constitute a self-imposed special circumstance precluding an area variance.