

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Diversified Holdings, LLP v. City of Suwanee

Supreme Court of Georgia - November 2, 2017 - S.E.2d - 2017 WL 4985523

Property owner sought judicial review of city's denial of application to rezone property zoned for commercial use.

Following a bench trial, the Superior Court affirmed. Property owner filed application for discretionary appeal, which was granted.

The Supreme Court of Georgia held that:

- Property owner was required to file application for discretionary appeal in order to invoke Supreme Court's jurisdiction;
- Inverse condemnation was not an available remedy on review of particular zoning classification; and
- City's refusal to rezone property did not violate property owner's due process rights.

Property owner seeking review of superior court's order affirming local zoning board's decision that zoning regulations applied to a particular piece of property were not unlawful was required to file application for discretionary appeal in order to invoke Supreme Court's jurisdiction; court's order contained lengthy description of property, detailed property owner's efforts to sell property, discussed topography and surrounding areas, and analyzed factors relating to use and value of property, property owner's complaint alleged that current zoning was unlawful for this property, not that adopted zoning scheme was unlawful for any property, and city's decision to reject that claim was immediate in application, specific in effect, and involved individualized assessment of property.

Where a landowner claims harm from a particular zoning classification, inverse condemnation is not an available remedy unless the landowner can meet the separate and distinct requirements for such a claim.

Property's zoning for commercial use was substantially related to public's health, safety, morality, and welfare, and therefore city's refusal to rezone property for multi-family residential use did not violate property owner's due process rights; much of the area around property was zoned for commercial use, property had no sidewalks, businesses abutted property, city's comprehensive plan provided for property's commercial zoning, and zoning ordinance at issue was adopted after extensive study and public debate.