

Bond Case Briefs

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ZONING & LAND USE - SOUTH DAKOTA

McDowell v. Sapienza

Supreme Court of South Dakota - January 3, 2018 - N.W.2d - 2018 WL 285839 - 2018 S.D. 1

Adjacent owners brought action against property owners and city based on theories of negligence and nuisance, seeking injunctive relief relating to new home being constructed by property owners, and alleging city was negligent in issuing building permit.

After a trial, the Circuit Court entered judgment in favor of adjacent owners. Property owners and city appealed.

The Supreme Court of South Dakota held that:

- City zoning ordinance addressing chimneys was not a setback requirement;
- Historic-district regulations applied to property owner's new home constructed in historic district;
- Issuance of injunction requiring property owners to modify their newly-constructed home to comply with regulation for historic districts was warranted;
- Laches did not apply; and
- Building codes do not create a duty of care that will support a negligence claim.