

Bond Case Briefs

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LAND USE & PLANNING - IOWA

City of Des Moines v. Ogden

Supreme Court of Iowa - March 16, 2018 - N.W.2d - 2018 WL 1357471

City brought action for injunctive relief, seeking to require landowner to cease use of property as mobile home park.

The District Court entered injunction. Landowner appealed, and the Court of Appeals affirmed. Landowner petitioned for review.

After grant of review, the Supreme Court of Iowa held that:

- City failed to establish that discontinuance of nonconforming use was necessary for safety of life or property, and
- As a matter of first impression, intensification of mobile home park, through addition of structures or expansion of homes within park, did not amount to illegal expansion of the authorized nonconforming use established by prior certificate of occupancy for park.

City failed to establish that discontinuance of nonconforming use was necessary for safety of life or property, in city's action for injunction to preclude landowner's use of property as mobile home park, which was a nonconforming use previously granted a certificate of occupancy; fire marshal testified park had never been cited for any fire safety code violations, fire marshal did not testify that current access road to park was dangerous, and city zoning inspector testified that city had never previously cited park for a zoning violation.

Intensification of mobile home park, through addition of structures or expansion of homes within park, did not amount to illegal expansion of the authorized nonconforming use established by prior certificate of occupancy for park; park had not changed in size or form, number and location of mobile homes was approximately the same as when certificate was issued, and addition to mobile home structures was only a marginal change to nature and character of use of property.