

# **Bond Case Briefs**

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## **ZONING & PLANNING - NEW YORK**

### **Cobleskill Stone Products, Inc. v. Town of Schoharie**

**Supreme Court, Appellate Division, Third Department, New York - February 21, 2019 - N.Y.S.3d - 2019 WL 758533 - 2019 N.Y. Slip Op. 01272**

Quarry owner filed article 78 proceeding challenging town's zoning ordinance prohibiting mining in agricultural zones.

The Supreme Court, Schoharie County, granted partial summary judgment in favor of defendants. Plaintiff appealed. The Supreme Court, Appellate Division, reversed. The Supreme Court granted town's motion in limine, and quarry owner appealed.

The Supreme Court, Appellate Division, held that quarry owner's use of its property did not become nonconforming for purposes of its vested rights claim until town adopted local law which again rezoned significant portions of owner's property and prohibited commercial mining and excavation; quarry owner made no claim that its rights stemmed from reliance on the town's actions, but, instead, alleged facts regarding its intent and efforts to expand its mining operations to the subject parcel, and as such, any equitable balancing between quarry owner and the town, as urged by the town, had no place in the court's analysis.