

Bond Case Briefs

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POLITICAL SUBDIVISIONS - LOUISIANA

Commodore v. City of New Orleans

Court of Appeal of Louisiana, Fourth Circuit - June 20, 2019 - So.3d - 2019 WL 2552571 - 2019-0127 (La.App. 4 Cir. 6/20/19)

Property owners petitioned for mandamus relief, compelling city council members to grant a conditional use permit for an ice cream parlor.

The Civil District Court granted the petition.

The Court of Appeal holds that:

- Judgment granting property owners' petition for mandamus contained sufficient decretal language to confer appellate jurisdiction;
- City council had discretion in approving or denying the proposed ordinance, and thus the approval of the ordinance was not a ministerial act that could be compelled by mandamus; and
- Statute providing temporary deferment of court costs during the pendency of a lawsuit involving a state or its subdivisions did not require plaintiffs to pay the state's cost absent a judgment taxing the costs.

Judgment granting property owners' petition for mandamus, to compel city council to grant conditional use permit for an ice cream parlor on the property, contained sufficient decretal language to confer appellate jurisdiction, even though the judgment did not explicitly state that the writ was granted, where the judgment specified relief by ordering council members to act on an ordinance.

City council had discretion in approving or denying a proposed ordinance, and thus the approval of the ordinance was not a ministerial act that could be compelled by mandamus; the council had adopted a motion to allow a conditional use request, the motion provided that the council "shall adopt" the proposed ordinance within ninety days, but read in context the motion only provided the time frame for the city council to vote on the ordinance.

Statute providing temporary deferment of court costs during the pendency of a lawsuit involving a state or its subdivisions did not require plaintiffs in an action against the state or its political subdivision to pay the state's cost absent a judgment taxing the costs against plaintiffs, despite the statute stating that the opposing party shall pay temporarily deferred court costs, as the statute only provided exemption of prepayment to the state, its agencies, and political subdivisions of the state of its own incurred court costs.