

Bond Case Briefs

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ANNEXATION - VIRGINIA

Bragg Hill Corporation v. City of Fredericksburg

Supreme Court of Virginia - August 15, 2019 - S.E.2d - 2019 WL 3822036

Property owner brought declaratory judgment action against city, seeking a declaration that property owner had a vested right to develop property according to a revised master plan submitted to county prior to annexation of property by city, and that city's change in zoning was void *ab initio*.

The Circuit Court dismissed the complaint with prejudice. Property owner appealed.

The Supreme Court held that:

- City code provision that rezoned property annexed from county was not void *ab initio*;
- Because landowner failed to exhaust its administrative remedies, the zoning administrator's decision became a "thing decided" not subject to court challenge; and
- City did not violate any of property owner's procedural due process rights by rezoning land it had annexed from county.

City code provision that rezoned property annexed from county did not exceed the authority granted by enabling statute that allowed a municipality to pass a zoning ordinance that applied to recently annexed land that came into the governing body's jurisdiction, and thus, was not void *ab initio*; absence of the word "temporary" in city code provision did not render it in conflict with the enabling statute, and even if the enabling statute had mandated a temporary zoning classification for all recently annexed land, the zoning classification imposed by city would have been temporary in the sense it could have been changed by amendment of the applicable zoning ordinance.

Landowner failed to appeal zoning board of appeals decision upholding zoning administrator's determination that property owner did not have a vested right to develop its property according to revised master plan, and thus, because landowner failed to exhaust its administrative remedies, the zoning administrator's decision became a "thing decided" not subject to court challenge.

City did not violate any of property owner's procedural due process rights by rezoning land it had annexed from county; board of zoning appeals (BZA) finding that property owner did not have a vested right in a revised master plan for development of the property became a "thing decided" and final when property owner decided not to appeal the BZA's determination, and even if property did have a vested right, that right would have continued until after annexation and rezoning, and thus, the change in zoning could not have deprived property owner of its alleged property interest.