

# **Bond Case Briefs**

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## **ZONING & PLANNING - OHIO**

### **Wesolowski v. City of Broadview Heights Planning Commission**

**Supreme Court of Ohio - September 17, 2019 - N.E.3d - 2019 WL 4418981 - 2019 -Ohio-3713**

Landowner brought declaratory judgment action against city planning commission, seeking declaration that she was entitled to certificate of approval for subdivision application.

The Court of Common Pleas granted partial summary judgment for landowner, granting a declaratory judgment ordering the commission to issue certificate of approval. Commission appealed. The Court of Appeals affirmed. Commission appealed, and the Supreme Court accepted jurisdiction.

The Supreme Court held that:

- Statute providing 30-day time limit for consideration of subdivision applications applied to both city and village planning commissions, and
- City's adoption of subdivision regulation was exercise of its police power that did not prevail over conflicting statute.

Subsection of statute governing approval of subdivision applications, which provided 30-day time limit for consideration of subdivision applications by "the planning commission, the platting commissioner, or the legislative authority of a village," applied to both city planning commissions and village planning commissions, though it did not specifically refer to "cities"; subsection did not contain clear, limiting language found in other subsections of statute, but rather included general reference to "planning commission" without qualifier, and if General Assembly had intended subsection to apply only to villages, it knew how to use limiting language.

City planning ordinance regarding approval of subdivision applications was exercise of police powers that conflicted with statute governing approval of subdivision applications, and thus statute prevailed over ordinance; ordinance was planning ordinance that did not relate to matter of internal city governance, but rather regulated conduct of city citizens by imposing requirements on subdivision applicants and prescribed manner in which city planning commission had to carry out its public functions, and ordinance conflicted with statute, as statute provided 30-day time limit for consideration of subdivision applications, while ordinance did not impose deadline for responding to applications.