

# **Bond Case Briefs**

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## **ZONING & PLANNING - ILLINOIS**

### **Ryan v. City of Chicago**

**Appellate Court of Illinois, First District, Third Division - December 11, 2019 - N.E.3d - 2019 IL App (1st) 181777 - 2019 WL 6769619**

Landowner brought action seeking writ of mandamus against city and commissioner of city department of buildings directing that neighboring house comply with two-foot minimum side setback of local zoning ordinance and seeking mandatory injunction directing neighboring homeowner and homebuilder to move wall of house to comply with setback.

The Circuit Court granted city and commissioner's motion to dismiss mandamus claim. Landowner filed interlocutory appeal.

The Appellate Court held that:

- Statute allowing private landowners to institute an action to prevent violation of a zoning ordinance or regulation did not provide landowner a private right of action against city, and
- City and commissioner had no clear duty to enforce ordinance.

City and commissioner of city department of buildings had no clear duty to revoke building permit for house allegedly built in violation of side setback local ordinance, to direct builder and owners of house to submit new building plans that complied with ordinance, or to direct the house be built in compliance with setback, and thus mandamus was not appropriate remedy for adjoining landowner challenging house's compliance with ordinance, even though ordinance mandated compliance for builders; city and commissioner had discretion in their enforcement of the ordinance.