
ZONING & PLANNING - IDAHO

Bracken v. City of Ketchum

Supreme Court of Idaho, Boise - November 2022 Term - September 15, 2023 - P.3d - 2023 WL 5988150

Applicant for conditional use permit brought action against city, mayor, and city administrators arising from denial of permit for applicant's proposed gas station off main street in city, alleging intentional interference with economic expectancy and § 1983 claims of due process violations.

The Fifth Judicial District Court granted summary judgment for defendants and denied applicant's motion for reconsideration. Applicant appealed.

The Supreme Court held that:

- Applicant's right to have application evaluated under then-existing ordinance vested when he filed second application;
- Applicant was excused from exhausting administrative remedies under Local Land Use Planning Act (LLUPA);
- Applicant did not have a due process property right in procedures governing application for conditional use permit;
- Trial court acted within its discretion in denying motions for rulings on issues of law while summary judgment motions were pending;
- Defendants were not entitled to attorney fees for a frivolous appeal; and
- Defendants were not entitled to § 1988 attorney fees as prevailing parties on appeal.

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