

Bond Case Briefs

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ZONING & PLANNING - MONTANA

Montanans Against Irresponsible Densification, LLC v. State

Supreme Court of Montana - March 17, 2026 - P.3d - 2026 WL 746593 - 2026 MT 53

Advocacy organization comprised of single-family property owners brought action against state and intervenors, asserting a facial constitutional challenge to certain zoning and land use laws codified in the Montana Land Use Planning Act (MLUPA).

The District Court entered declaratory judgment that the laws did not supplant private restrictive covenants, granted summary judgment in favor of property owners on their claim that the laws violated the right to public participation, permanently enjoined certain statutory sections as violating the constitutional right to participate, and granted summary judgment against property owners on their equal protection claims. The parties appealed and cross-appealed.

The Supreme Court held that:

- Property owners' facial challenge to MLUPA provision limiting public participation at site-specific project approval stage was justiciable under the voluntary cessation exception to the mootness doctrine;
- Property owners' claim that MLUPA provisions limiting public participation at site-specific project approval stage violated the right to participate was ripe for judicial consideration;
- Property owners failed to establish MLUPA provisions limiting public participation at site-specific project approval stage facially violated the constitutional right to participate;
- MLUPA provisions requiring municipalities to permit duplexes and accessory dwelling units (ADU) where single-family homes were permitted did not facially violate the right to equal protection by impermissibly creating categories of large and small municipalities;
- MLUPA provisions requiring municipalities to permit duplexes and ADUs where single-family homes were permitted did not facially violate the right to equal protection by creating impermissible classifications of property owners who were party to restrictive covenants and those who were not; and
- District court's declaratory judgment holding that MLUPA provisions requiring municipalities of a certain size to permit duplexes and ADUs could not be used to invalidate covenants that were more restrictive was an impermissible advisory opinion.