

Bond Case Briefs

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INVERSE CONDEMNATION - SOUTH CAROLINA

Chakrabarti v. City of Orangeburg

Court of Appeals of South Carolina - May 1, 2013 - S.E.2d - 2013 WL 1830951

Plaintiffs purchased a fire-damaged house located in Orangeburg, South Carolina. Ultimately, Orangeburg determined the house to be a nuisance and condemned it under the International Property Maintenance Code (IPMC), which Orangeburg adopted as its building maintenance code. Orangeburg demolished the house and plaintiffs filed a complaint against Orangeburg, alleging negligence in condemning the house as a nuisance and demolishing it and seeking actual damages.

Section 110 of the IPMC addresses demolition. IPMC Section 110.1 provides a city may demolish an unsafe house as a nuisance if one of three requirements are met: (1) the city deems it impossible to save (unreasonable to repair) and ordered its demolition; (2) the owner and the city both agree to demolish it; or (3) in cases where repairs have been undertaken, any substantial construction had ceased for two years. Orangeburg asserts the evidence provides compelling proof that there was "cessation of normal construction" of more than two years on plaintiffs' property.

Plaintiffs argued Orangeburg was grossly negligent in demolishing their house without waiting the requisite time, the cessation of normal construction for a period of more than two years after work began, as required by section 110.1 of the IPMC. The court found Orangeburg issued a second building permit to the plaintiffs six months prior to demolishing their house, and Orangeburg produced no evidence of a date when substantial construction on the property had ceased for any significant period, much less the required two years. Therefore, the court determined Orangeburg did not follow the proper procedure in demolishing plaintiffs' house. Further, evidence was presented that the Chakrabartis' contractor was doing work on the house until Orangeburg demolished it.