

Bond Case Briefs

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ZONING - MASSACHUSETTS

Plainville Asphalt Corp. v. Town of Plainville

Appeals Court of Massachusetts, Suffolk - June 6, 2013 - N.E.2d - 2013 WL 2421029

Operator of bituminous concrete plant filed petition for determination of validity of town zoning ordinance, alleging that its nonconforming use of property was not a use prohibited by zoning bylaws, but remained a use as of right.

The appeals court held that:

- Bylaw prohibited use of property as bituminous concrete plant, and
- Use had lost its status as a preexisting nonconforming use through nonuse.

The court also noted that the right of the public to have the zoning by-law properly enforced cannot be forfeited by the action of a municipality's officers.