

Bond Case Briefs

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INVERSE CONDEMNATION - GEORGIA

Walleye, LLC v. City of Forest Park

Court of Appeals of Georgia - July 1, 2013 - S.E.2d - 2013 WL 3286399

Walleye, LLC, owned property in the City of Forest Park at which tenant operated the Crazy Horse Saloon, a nude dancing business with private rooms and on-site alcohol service.

In March 2009, the City enacted a new ordinance, which repealed the previous sexually-oriented businesses code and enacted a revised code, banning the sale of alcohol and the use of private booths at nude dancing establishments.

The Crazy Horse closed and the property owner filed a lawsuit alleging an inverse condemnation claim because (1) there was no viable uses of the property other than that previously operated; and (2) the City had deprived the property owner of all viable economic use of the property.

The City filed a motion for summary judgment, which the trial court granted, finding that the property owner did not have vested property rights in renewed adult business or alcohol licenses, and therefore, they failed to establish a regulatory taking by the City.

The court of appeals affirmed, finding that property owner failed to state a claim for which it could recover because not only did it fail to present any evidence that their property could not be converted to a use other than an adult business, but because the zoning for the particular parcels allows for adult business. The property owner also failed to show that it could not continue leasing its buildings to other businesses in the same category that would not have violated the City's licensing rules and could operate legally within the City.