

Bond Case Briefs

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ZONING - MONTANA

Williams v. Board of County Com'rs of Missoula County

Supreme Court of Montana - August 28, 2013 - P.3d - 2013 MT 243

Challenger to constitutionality of a statutory protest provision, under which group of property owners barred board of county commissioners from establishing special zoning district in which gravel mining and asphalt operations would be prohibited, filed complaint against board for declaratory and injunctive relief. Landowners intervened. The District Court denied landowners' motion to dismiss and granted summary judgment to challenger and to board, which agreed with challenger that statute was unconstitutional. Landowners appealed.

The Supreme Court of Montana held that:

- Property owners were necessary parties to declaratory judgment action, but challenger's failure to name them as parties was remedied by their timely intervention;
- Protest provision, which allowed property owners representing 50 percent of the agricultural and forest land in a zoning district to block zoning proposals, was an unconstitutional delegation of legislative power that violated due process guarantees in federal and state constitutions; and
- Invalid protest provision was severable from remainder of statute setting forth procedures to be followed by board of county commissioners in adopting zoning regulations.

Provision in zoning statute that allowed property owners representing 50 percent of the agricultural and forest land in a zoning district to block zoning proposals, and to prevent county commissioners from even proposing an alternative zoning resolution for a period of one year, was an unconstitutional delegation of legislative power that violated due process guarantees in federal and state constitutions. Protest provision provided no standards or guidelines to inform the exercise of the delegated power, and it contained no legislative bypass providing for review by a legislative body with the power to consider exceptional cases.