

Bond Case Briefs

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ZONING - ALABAMA

City of Prattville v. S & M Concrete, LLC

Court of Civil Appeals of Alabama - September 13, 2013 - So.3d - 2013 WL 4873473

Property owner submitted a variance request. The Board of Zoning Appeals denied the variance request. Property owner appealed. The Circuit Court entered judgment in favor of property owner and rezoned the property. City appealed.

The Court of Civil Appeals held that:

- Property owner did not have a right to continue the nonconforming use of property, and
- The city's denial of property owner's request to change the zoning classification of property from residential to business was not arbitrary or capricious.

Property owner did not have a right to continue the nonconforming use of property, even though predecessor in title had previously used the property zoned residential for a business. The property had previously been used by owner's father as a gravel pit. When owners' parents divorced, owner's mother acquired title to the property. There was no evidence that the property continued to be used as a gravel pit after owner's mother acquired title to the property, and thus the nonconforming use of the property had been discontinued for more than one year.