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ZONING - GEORGIA

City of Tybee Island, Georgia v. Live Oak Group, LLC

Court of Appeals of Georgia - November 5, 2013 - S.E.2d - 2013 WL 5912115

Property owner filed zoning appeal and petition for mandamus, asserting a variety of claims arising out of city's denial of its application for a zoning amendment. The trial court awarded summary judgment to property owner on its inverse condemnation claim, and awarded summary judgment to city on owner's remaining claims, including owner's federal takings claim, which it explained was being denied solely because owner succeeded on the inverse condemnation claim. City appealed, and property owner appealed the denial of its federal takings claim in the event the judgment on the inverse condemnation claim was reversed.

The Court of Appeals held that denial of property owner's application for a zoning amendment did not amount to inverse condemnation.

City's denial of property owner's application for a zoning amendment did not amount to inverse condemnation under the eminent domain provision of state constitution. There was no affirmative act by city for a public purpose causing a nuisance or trespass on owner's property resulting in diminished utility and functionality of the property.