

# **Bond Case Briefs**

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## **ZONING - ALABAMA**

### **Lee v. Houser**

**Supreme Court of Alabama - December 20, 2013 - So.3d - 2013 WL 6703454**

Developer and developer's agent brought action against town and town planning commission, alleging negligent and wanton failure to consider or to approve developer's subdivision-plat application. The Circuit Court denied defendants' motion for judgment as a matter of law and entered judgment on a jury verdict in favor of plaintiffs. Town and commission appealed.

On application for rehearing, the Supreme Court of Alabama held that:

- Issue of whether town and town's planning commission acted negligently by failing to properly consider or grant the developer's application for preliminary plat approval was for jury;
- Issue of whether town planning commission tortiously acquired jurisdiction over developer's property was for jury;
- Municipal immunity did not apply to town and planning commission;
- Personal-injury cap did not apply to developer's claim for damages associated with town's refusal to approve subdivision plat;
- Developer's agent's untimely complaint against town did not relate back to developer's complaint so as to remedy agent's violation of the municipal notice-of-claim statute; and
- Evidence was sufficient to support jury's award of lost profits.

Municipal immunity did not apply to town that sought extraterritorial jurisdiction over the private property of developer so that the municipality could prevent development of that property. There was evidence that actions of town and its planning commission were negligent beyond wrongful decision making, and public welfare exception to general rule of no immunity did not apply, given that town seemingly lacked a public interest reason for delaying the consideration of developer's plat application.

Personal-injury cap did not apply to action by developers against town for damages associated with town's refusal to approve subdivision plat since the personal-injury cap only applied to bodily injury or death, neither of which were asserted in the case.