

Bond Case Briefs

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MUNICIPAL ORDINANCE - GEORGIA

Polo Golf and Country Club Homeowners' Ass'n, Inc. v. Rymer

Supreme Court of Georgia - January 21, 2014 - S.E.2d - 2014 WL 211267

Homeowners who experienced flooding in their home brought action against subdivision homeowner's association following its alleged refusal to repair the subdivision's stormwater system. The homeowner's association counterclaimed against homeowners and sought a declaratory judgment against county. The county moved for summary judgment. The Superior Court granted the motion. The homeowner's association appealed.

The Supreme Court of Georgia held that:

- Fact issue existed as to whether association was estopped from enforcing maintenance provisions in covenant against homeowners, but
- Addendum in county ordinance did not apply to existing developments.

A genuine issue of material fact existed as to whether subdivision homeowner's association was equitably estopped from enforcing maintenance provision of covenant against subdivision homeowners, precluding summary judgment in homeowners' action against the association for its alleged failure to repair the subdivision's stormwater system.

Addendum to county ordinance requiring certain real estate developments to maintain and repair their own stormwater systems applied only to new developments or re-developments, and thus did not require existing subdivision to pay to maintain stormwater system.