

Bond Case Briefs

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ZONING - ALASKA

Tweedy v. Matanuska-Susitna Borough Bd. of Adjustment and Appeals

Supreme Court of Alaska - June 20, 2014 - P.3d - 2014 WL 2795900

Applicant sought judicial review of borough board of adjustment appeals' affirmation of planning director's decision to deny request for an exemption or variance from borough's setback requirement. The Superior Court affirmed and applicant appealed.

The Supreme Court of Alaska held that:

- Zoning ordinance that governed how close to a body of water a property owner could build a structure on subdivided land was not limited to directly implementing the borough's platting authority;
- Applicant's addition of stairwell to his property was unlawful;
- Board of adjustment appeals did not retroactively apply zoning ordinance to improvements constructed by applicant prior to the date the ordinance was passed;
- Borough's setback requirement, and its lack of a provision to allow for the expansion of existing nonconforming structures, were both reasonably related to a legitimate government purpose, and thus, did not violate applicant's substantive due process rights;
- No procedural due process issues were raised by borough board of adjustment appeals' application of the setback requirement to applicant's property;
- Enforcement of the setback requirement did not constitute an unlawful "taking"; and
- Applicant was not entitled to a variance from borough's 75-foot shoreline setback requirement.