

# **Bond Case Briefs**

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## **ZONING - NORTH CAROLINA**

### **Atkinson v. City of Charlotte**

**Court of Appeals of North Carolina - July 29, 2014 - S.E.2d - 2014 WL 3724134**

In 2010, the City of Charlotte amended its Zoning Ordinance to exempt certain parking decks from floor area ratio requirements imposed by the Ordinance.

Plaintiffs - neighboring residents - initiated a declaratory judgment action seeking to have the amendment invalidated.

Plaintiffs argued that the trial court erred by granting summary judgment in favor of the City and intervenors because the undisputed facts establish that the City Council failed to comply with N.C. Gen.Stat. § 160A-383 when it adopted the amendment. Specifically, plaintiffs contended (1) that the "Statement of Consistency" adopted by the City Council did not meet the requirements of a "statement" pursuant to that statute; and (2) that the Zoning Committee did not include the entire Planning Commission and thus the Zoning Committee's approval of the amendment also did not meet all statutory requirements.

The Court of Appeals agreed with plaintiffs' first contention, finding it to be dispositive. Consequently, the court did not address plaintiffs' second contention.

"The Statement of Consistency adopted by the City Council in the instant case cannot reasonably be said to include an "explanation" as to why the amendment is reasonable and in the public interest under the plain meaning of that term. Instead, the statement merely tracks the language of N.C. Gen.Stat. § 160A-383."