

Bond Case Briefs

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Maw Enterprises, L.L.C. v. City of Marksville

Supreme Court of Louisiana - September 3, 2014 - So.3d - 2014-0090 (La. 9/3/14)

Property owner/commercial lessor brought action against city, seeking to recover damages for city's denial of retail alcoholic beverage permit to lessee, which was convenience store operator. The District Court entered judgment in favor of landlord. City appealed.

The Supreme Court of Louisiana held that:

- City owed no duty to lessor to issue alcoholic beverage permit to lessee, and
- Harm caused to lessor was not within scope of protection afforded by duty breached.

City did not owe duty to lessor to issue retail alcoholic beverage permit to lessee of lessor's property, and therefore city was not liable to lessor for negligence stemming from denial of permit. Applicable statute's reference to "premises" spoke to where a business engaged in the sale of alcohol could be located, it did not confer an independent right to a permit on the premises where the business was to be located, and statute made clear that the permits were directed to persons engaged in the business of manufacturing, supplying, or dealing in alcoholic beverages, not the property owner of the property on which the business was conducted.

Harm cause to lessor by city's denial of retail alcoholic beverage permit to lessee that operated convenience store was not within the scope of protection afforded by the duty allegedly breached, and therefore city was not liable to lessor for negligence. It was highly unlikely that the moral, social, and economic considerations underlying the imposition of a duty to issue a retail alcoholic beverage permit to a qualified applicant encompassed the risk that a third party who had contracted with the applicant would thereby suffer an economic loss, especially when that loss was not even directly tied to the sales of alcohol the timely issuance of a permit would have allowed, but instead was based on decrease of gasoline sales at the store.