

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING - MAINE

Rommel v. City of Portland

Supreme Judicial Court of Maine - October 16, 2014 - A.3d - 2014 ME 114

Residents brought action against City to challenge its approval of a conditional zoning agreement (CZA), claiming the CZA was inconsistent with City's comprehensive plan and violated state statute limiting conditional rezoning. The Superior Court entered summary judgment in favor of residents. City appealed.

The Supreme Judicial Court, Alexander, J., held that:

- CZA was consistent with City's comprehensive plan, and CZA was in basic harmony with existing and permitted uses.

Conditional zoning agreement that permitted renovation of residential space on three floors of historical building for use by nonresident employees of software development company was consistent with City's comprehensive plan. Comprehensive plan required preservation of unique character of area in which building was located but also recognized as goal the promotion of economic climate that increased job opportunities and overall economic well being, and, in the approved CZA, City approved the rezoning only after attaching conditions to ensure that the CZA was consistent with the comprehensive plan.

Conditional zoning agreement that permitted renovation of residential space on three floors of historical building for use by nonresident employees of software development company was in basic harmony with existing and permitted uses and thus did not violate provision of zoning ordinance statute requiring rezoned areas to be consistent with the existing and permitted uses within the original zones. Existing uses of the area included operation of nursery schools, private clubs, daycare facilities, and group homes, which had the potential to be more disruptive than an office with a maximum of 14 employees and limited visits by the public.