

Bond Case Briefs

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MUNICIPAL ORDINANCE - MAINE

Dubois Livestock, Inc. v. Town of Arundel

Supreme Judicial Court of Maine - November 4, 2014 - A.3d - 2014 ME 122

Following town's code enforcement officer's notice of violation of agricultural composting operator's conditional use permit, operator appealed to town's Zoning Board of Appeals. Board denied his appeal and upheld notice of violation. Operator challenged board's decision and the Superior Court affirmed Board's decision. Operator appealed.

The Supreme Judicial Court of Maine held that:

- Agriculture Protection Act did not preempt town's solid waste facilities ordinance, and
- Solid Waste Act did not preempt town's solid waste facilities ordinance.

Even if agricultural composting operator was a "farm" for purposes of Agriculture Protection Act, producing agricultural products, as defined by the Act, on site, the Act did not preempt town's solid waste facilities zoning ordinance as applied to operator. Although Act prohibited a municipality from determining that a farm's method of operation violated a local ordinance if the farm had used best management practices, operator made no showing that it was following best practices when it violated the ordinance by failing to report its annual intake to town or to allow town representatives to inspect its premises.

Solid Waste Act did not preempt town's solid waste facilities zoning ordinance as applied to agricultural composting operator, where the standards in the ordinance were not stricter than those in the Act, the ordinance's definitions were not inconsistent with those in the Act, and the ordinance's provisions did not frustrate the purpose of the Act.