

# **Bond Case Briefs**

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## **ZONING - OHIO**

### **SP9 Ent. Trust v. Brauen**

**Court of Appeals of Ohio, Third District, Allen County - November 3, 2014 - Slip Copy - 2014 -Ohio- 4870**

Following receipt of notice of violation (NOV) of zoning resolution related to operation of rolloff business on property zoned for general business uses, operator of rolloff business and owner of property on which business was operated filed declaratory judgment action against township, claiming that business's use of property was permitted use under resolution, and in the alternative, that business's operation on property was nonconforming use for which no permit was necessary. The Court of Common Pleas denied township summary judgment, and following bench trial, dismissed complaint. Operator and owner appealed, and township cross-appealed.

The Court of Appeals held that:

- Rules of Civil Procedure were not applicable to service of NOV; but
- Error in applying Rules was harmless;
- Business operator and property owner had standing to appeal NOV to board of zoning appeals (BZA);
- BZA had ability to provide relief sought by business operator and property owner in declaratory judgment action; and
- Cross-appeal was improper.