

Bond Case Briefs

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ZONING - NORTH CAROLINA

Byrd v. Franklin County

Court of Appeals of North Carolina - November 18, 2014 - S.E.2d - 2014 WL 6435679

Landowners appealed from a superior court's order affirming a decision by Franklin County, made by its Board of Adjustment, determining that Landowners could not operate a shooting range on their property without a special use permit, requiring approval by the County's Board of Commissioners.

Landowners contended that the superior court erred in its interpretation of the Franklin County Unified Development Ordinance (UDO). Specifically, Landowners argued that the UDO does not regulate shooting ranges and, therefore, they did not need any approval from the County to operate a shooting range on the Property. Landowners also argued that the superior court erred by concluding that shooting ranges were regulated by the UDO as an Open Air Game.

The Court of Appeals agreed with the Landowners that the superior court erred in its interpretation of the UDO by concluding that the shooting range fell within the Open Air Games category in the Table. However, it disagreed with the Landowners that the UDO did not regulate shooting ranges at all, and that it did in fact prohibit shooting ranges anywhere in the County by providing that "[u]ses not specifically listed in the Table [] are prohibited." Accordingly, the court held that the superior court did not err in affirming the County's order that Landowners cease and desist from operating a shooting range on the Property.