

Bond Case Briefs

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MUNICIPAL ORDINANCE - MONTANA

City of Helena v. Svee

Supreme Court of Montana - November 25, 2014 - P.3d - 2014 MT 311

City filed complaint against owners of property located within wildland-urban district for violation of ordinance dictating permissible roofing materials. Owners answered and petitioned for declaratory judgment that ordinance was building regulation that city lacked authority to promulgate. The First Judicial Court entered summary judgment for owners, but denied their motion for attorney fees. City appealed, and owners cross-appealed denial of their motion for attorney fees.

The Supreme Court of Montana held that:

- Ordinance requiring that roofs on property located within wildland-urban district may not have exposed, wooden roofing materials, whether treated or untreated, and must have noncombustible or fire resistant roofing materials rated Class C or higher, was building regulation that city lacked authority to promulgate, and
- Equities warranted award of attorney fees to property owners under Uniform Declaratory Judgments Act.