

Bond Case Briefs

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Southern States-Bartow County, Inc. v. Riverwood Farm Property Owners Ass'n, Inc.

Court of Appeals of Georgia - March 25, 2015 - S.E.2d - 2015 WL 1315545

Property owners near site of proposed landfill brought action against landfill developer and county for declaratory and injunctive relief and later amended complaint to allege anticipatory nuisance and racketeering. The Superior Court entered partial summary judgment in favor of owners and denied motion to dismiss anticipatory nuisance claim, but dismissed racketeering and punitive damages claims. Developer appealed, and the Supreme Court transferred matter.

The Court of Appeals held that:

- Developer's vested right to operate landfill lapsed;
- Partial summary judgment had to be vacated for decision on developer's constitutional challenge to ordinance; and
- Factual issue precluded summary judgment on whether developer applied for new permit and waived vested rights.

Landfill developer did not commence non-conforming use by obtaining zoning compliance letter from county, and, thus, its vested right to operate landfill lapsed pursuant to ordinance prohibiting non-conforming use for which a vested right was acquired unless the use was commenced within one year of adoption of ordinance; commencing the non-conforming use required start of operating an actual landfill on the property and involved something more than submitting paperwork.