

Bond Case Briefs

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MUNICIPAL ORDINANCE - PENNSYLVANIA

Diefenderfer v. Palmer Township Bd. of Sup'rs

Commonwealth Court of Pennsylvania - November 10, 2015 - A.3d - 2015 WL 6919451

Residents brought land use appeal against township board of supervisors and requested a declaration that an ordinance allowing digital advertising billboards was null and void. The Court of Common Pleas dismissed appeal. Residents appealed.

The Commonwealth Court held that:

- Proposed change to ordinance increasing the permitted hours of illumination from 17 to 24 hours per day was a substantial amendment, and thus township was required to re-advertise the change prior to enactment of ordinance, and
- Ordinance was void from its inception.

Proposed change to township ordinance allowing digital advertising signs and billboards, which increased the permitted hours of illumination from 17 to 24 hours per day, was a substantial amendment, and thus township was required to re-advertise the change at least ten days prior to enactment of ordinance, even though change appeared minor in grand scheme of ordinance. Light emanating from billboard interfered with adjacent residents' sleep and impacted their use and enjoyment of property, residents would have enjoyed seven hours of darkness each night under earlier version of ordinance, and change significantly altered township's regulation of nighttime billboard use.

Ordinance allowing digital advertising signs and billboards, including an amendment which increased the permitted hours of illumination from 17 to 24 hours per day, was void from its inception, in land use appeal that was filed more than 30 days but less than two years after enactment of ordinance. Billboard interfered with adjacent residents' use and enjoyment of their property, and township did not comply with statutory procedure when it did not advertise amendment prior to its enactment, which prevented residents and similarly situated landowners from commenting on proposed amendment before it was enacted.