

Bond Case Briefs

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ZONING - MARYLAND

Sizemore v. Town of Chesapeake Beach

Court of Special Appeals of Maryland - November 25, 2015 - A.3d - 2015 WL 7573409

Property owners petitioned for judicial review of decision of Town Board of Zoning Appeals revoking permit to construct restaurant on property, after property had been rezoned to residential-village, due to owners' failure to progress satisfactorily on construction. The Circuit Court upheld Board's decision, and owners appealed. Appeal was subsequently abandoned. Owners then applied for new permit. The Town denied permit, and Board upheld denial. Owners petitioned for judicial review. The Circuit Court affirmed, and owners appealed.

The Court of Special Appeals held that:

- Owners had vested right in permit for construction of restaurant after property was rezoned from commercial high-density use to residential-village use;
- As matter of first impression, vested right to continue construction under existing permit following change in zoning ordinance could be abandoned under terms of zoning statute or if owners demonstrated intent to abandon permit;
- Owners abandoned vested right in permit;
- Res judicata barred consideration of owners' claim of vested right on appeal from denial of request for new permit; and
- Expiration of tolling bill rendered moot property owners' claim that bill applied to reinstate permit.