

# **Bond Case Briefs**

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## **ZONING - TEXAS**

### **City of Anahuac v. Morris**

**Court of Appeals of Texas, Houston (14th Dist.) - December 17, 2015 - S.W.3d - 2015 WL 9249830**

Owner of manufactured home brought declaratory judgment action against city, alleging city ordinance that regulated placement of manufactured homes was preempted. The District Court rendered a declaratory judgment in favor of owner, and city appealed.

The Court of Appeals held that:

- Owner of manufactured home had standing to bring declaratory judgment action against city;
- District Court had subject matter jurisdiction to render a non-advisory judgment that was binding on city and owner of manufactured home;
- City ordinance that prohibited the installation of all manufactured homes that failed to meet certain construction standards was preempted as to plaintiff owner's manufactured home; and
- Declaratory judgment, in which the District Court declared that the language "zone 3 or better specifications" in city ordinance was invalid, illegal, and unconstitutional, was overbroad.

Owner of manufactured home had standing to bring declaratory judgment action against city, challenging city ordinance, after city denied owner's permit application; city's refusal to issue permit resulted in a particular injury to owner, who could not complete the installation of his manufactured home.

Trial court had subject matter jurisdiction to render a non-advisory judgment that was binding on city and owner of manufactured home, after city refused to issue owner permit to allow him to complete installation of home. City's enforcement of ordinance created a justiciable controversy, and owner's suit sought to resolve that controversy by asking whether or not the ordinance in question was enforceable.

Ordinance that prohibited the installation of all manufactured homes that failed to meet certain construction standards was preempted as to plaintiff owner's manufactured home by statute that provided that manufactured homes of a certain age could be installed in county without regard to city's construction standard. Even if city's ordinance was adopted to protect the aesthetics and property values of the community, city's use of its police power could not supplant or take supremacy over a contrary act of the state legislature.

Declaratory judgment, in which the court declared that the language "zone 3 or better specifications" in city ordinance was invalid, illegal, and unconstitutional, was overbroad, because it did not distinguish between homes covered by the grandfather clause in statute governing wind zone regulations, and those that were not; manufactured home owner brought his declaratory judgment action challenging city ordinance on the basis he owned an older model home, and did not argue that his home was built according to wind zone II standards, which would have implicated a different provision of the statute.

