Bond Case Briefs

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Perry v. Town of Putnam

Appellate Court of Connecticut - February 2, 2016 - A.3d - 162 Conn.App. 760 - 2016 WL 307112

Municipality filed motion to strike homeowner's amended complaint alleging nuisance. The Superior Court granted motion. Homeowner appealed.

The Appellate Court held that:

- Parking lot did not have a natural tendency to create danger and inflict injury on person or property;
- Use of public land as a parking lot was not unreasonable or unlawful; and
- Decision to locate, construct, and encourage parking in a parking lot located immediately adjacent to homeowner's property did not constitute the type of affirmative act necessary for actionable nuisance.

Municipal parking lot located immediately adjacent to homeowner's property did not have a natural tendency to create danger and inflict injury on person or property, thus precluding action for nuisance against municipality. The disruptive activity and sounds in the parking lot simply did not imbue the parking lot with a natural tendency to create danger and to inflict injury.

Municipality's use of public land as a parking lot was not unreasonable or unlawful, thus precluding homeowner's action for nuisance based on municipality's construction of parking lot located immediately adjacent to homeowner's property. Building a public parking lot on town land in the vicinity of athletic facilities simply was not an unreasonable use of the land, nor was it unlawful.

Construction of parking lot located immediately adjacent to homeowner's property did not constitute the type of affirmative act necessary for actionable nuisance claim against a municipality. The acts giving rise to the annoyances of which homeowner's complained were those of third parties, and such unpleasant and disruptive behavior by third parties was the proper bailiwick of police regulation and control, not of the law of nuisance.