

Bond Case Briefs

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ZONING - SOUTH CAROLINA

Arkay, LLC v. City of Charleston

Court of Appeals of South Carolina - June 29, 2016 - S.E.2d - 2016 WL 3573147

Landowner appealed decision of the city board of zoning appeals to deny application for special use exception to operate stable in general business district near residential district.

The Circuit Court entered judgment for landowner, and city appealed.

The Court of Appeals held that:

- Entire building, rather than stalls where horses actually would be located, constituted “stable” within meaning of special use exception requirement that stable be located 100 feet from residential area, and
- Proposed horizontal property regime did not change status of building as a stable.

Entire building where horses would be kept, rather than stalls where horses actually would be located, constituted a “stable” within meaning of special use exception requirement that a stable be located 100 feet from any residential zone district. Carriage horse business ordinance differentiated between stable and stalls and defined “stable” as the barn where animals are kept, areas and rooms in front of stalls, including areas for customers, tack rooms, restrooms, and offices, were are commonly associated with horse stables, and obnoxious elements addressed by ordinance, including odors, waste, drainage, and pests, were still likely to accumulate in those areas and rooms and escape through front gate.

Proposed horizontal property regime did not change status of building as a “stable” within meaning of ordinance prohibiting stables within 100 feet of residentially zoned district, as it would not vertically subdivide the building itself to separate horse stalls from rest of building. Certain areas, including tack rooms, restrooms, and customer areas would all be underneath the roof of the building, and the building was within 100 feet of a residentially zoned district.