

Bond Case Briefs

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Mustang Run Wind Project, LLC v. Osage County Board of Adjustment

Supreme Court of Oklahoma - November 1, 2016 - P.3d - 2016 WL 6462378 - 2016 OK 113

Applicant appealed decision of the county board of adjustment denying application for conditional use permit to operate energy facility using wind turbines.

The District Court ordered the board to issue the permit. Board appealed, and the appeal was retained.

The Supreme Court of Oklahoma held that:

- County board of adjustment possessed the authority under the City-County Planning and Zoning Act to grant conditional use permits to owners of real property located in the county;
- District Court considered board's general welfare objections to approval of conditional use permit application, even though the court did not expressly cite to county zoning ordinance allowing board to consider general welfare in deciding permit applications, and thus, court's failure to cite to ordinance did not render its order invalid;
- County zoning ordinance, which allowed county board of adjustment to deny conditional use permit applications, did not grant the board the discretion to deny conditional use permit application on the basis that operation of wind turbines was not beneficial to the community; and
- District Court's findings, that application for conditional use permit satisfied county zoning ordinances and that board's objections to approval of application were not based upon credible evidence, were not against the clear weight of the evidence.