

# **Bond Case Briefs**

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## **ZONING & LAND USE - ALABAMA**

### **Shoal Creek Land & Cattle, LLC v. City of Arab**

**Court of Civil Appeals of Alabama - July 14, 2017 - So.3d - 2017 WL 2991470**

Purchaser of building in city's historic district appealed historic preservation commission's denial of its application of certificate of appropriateness after it replaced four windows in building.

After a trial, the Circuit Court upheld denial. Purchaser appealed.

On application for rehearing, the Court of Civil Appeals held that commission could not deny certificate of appropriateness application on basis that windows did not conform to general character of historic district.

Historic preservation commission could not deny certificate of appropriateness application filed by purchaser of building in city's historic district after purchaser replaced four windows in building on basis that windows did not conform to general character of historic district. Building was classified as noncontributing building, meaning that it did not contribute to district, because exterior appearance of building had been substantially modified from its original condition, and commission's window-design standards did not apply to noncontributing buildings.

Municipal ordinances, placing restrictions upon lawful conduct or the lawful use of property, must, in order to be valid, specify the rules and conditions to be observed in such conduct of business, and must admit of the exercise of the privilege by all citizens alike who will comply with such rules and conditions, and must not admit of the exercise, or of an opportunity for the exercise, of any arbitrary discrimination by the municipal authorities between citizens who will so comply.

A historic preservation commission cannot deny a proposed change to a building within a historic district solely on the basis of its opinion that the proposed change conflicts with the general character of the historic district, which is too vague a standard; instead, the legislature intended that a historic preservation commission can deny a proposed change to a building within a historic district based only on specific uniform standards.