

Bond Case Briefs

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ZONING & PLANNING - ALABAMA

Ex parte Buck

Supreme Court of Alabama - October 27, 2017 - So.3d - 2017 WL 4856284

Landowners brought action against city and real-estate-development company that intended to build a multistory apartment complex on adjacent land for declaratory and injunctive relief in regards to city's approval of zoning changes to allow the building of the complex.

The Circuit Court entered summary judgment for city and developer. Landowners appealed. The Court of Civil Appeals affirmed. Landowners sought certiorari review.

The Supreme Court of Alabama held that:

- City's passage of a new zoning ordinance that purportedly replaced the challenged ordinance did not render the appeal moot, and
- City council's adoption of conditions prior to approving the challenged ordinance violated statute on notice requirements for proposed ordinances.

City's passage of a new zoning ordinance that permitted construction of an apartment complex and that purportedly replaced a challenged ordinance on the same subject did not render moot the appeal in case concerning the validity of the challenged ordinance. A separate lawsuit challenged the validity of the new zoning ordinance, and since there remained a possibility that the new ordinance could be held invalid, a holding that the challenge to the first ordinance was moot would have been premature.

City council's adoption of conditions prior to approving an already published proposed zoning ordinance allowing the building of an apartment complex violated statute on notice requirements for proposed ordinances, even though the conditions added restrictions to the zoning district at issue. One condition changed the zoning district from one that would have allowed 37 possible uses of property to one that would have allowed only nine, but notice statute required that the ordinance ultimately adopted be the same as the proposed ordinance that was published, and such a change was never disclosed to the public before the council meeting or even to the council until the night before the meeting.