

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Shelley v. Town of Tyrone

Supreme Court of Georgia - October 16, 2017 - S.E.2d - 2017 WL 4582564

Commercial property owner brought action against town, seeking damages, a declaratory judgment, and injunctive relief, claiming inverse condemnation and alleging that zoning ordinances were void.

The Superior Court granted town partial summary judgment. Owner appealed.

The Supreme Court of Georgia held that:

- Owner failed to exhaust administrative remedies, as required to bring as-applied challenges to zoning scheme, and
- Owner's facial challenges to zoning ordinances and amendments were moot.

Commercial property owner challenging rezoning of property failed to exhaust administrative remedies, as required to bring declaratory judgment and inverse condemnation claims against town, despite contention that seeking permission from town for certain uses not authorized by zoning ordinance would have been too cumbersome and futile. Owner was required to seek variance or conditional use requests, rezoning petitions, or occupational tax certificate, and rejections of proposed uses was done informally by officials who would not have made ultimate decision on formal requests.

Commercial property owner's facial challenges to town's zoning ordinances and amendments were moot, where town enacted entirely new zoning ordinance that expressly repealed and replaced challenged ordinance and zoning map and all previous ordinances in conflict, and proper challenge to new ordinance would have required amendment of owner's complaint.