

Bond Case Briefs

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ZONING & LAND USE - VIRGINIA

Chilton-Belloni v. Angle for City of Staunton

Supreme Court of Virginia - November 9, 2017 - S.E.2d - 2017 WL 5184170

Years after litigation involving privacy wall's compliance with city code, city and its zoning administrator sought an injunction to compel homeowner to remove the wall.

Following the denial of homeowner's motion for a stay to allow board of zoning appeals to consider a variance, homeowner petitioned for a writ of mandamus against board, and city and administrator intervened.

Considering the actions together, the Circuit Court denied the petition for mandamus and granted the injunction. Homeowner appealed.

The Supreme Court of Virginia held that:

- Prior court ruling reversing board's grant of variance was insufficient to preclude board from hearing variance issue, and
- Board did not operate in manner equivalent to court, and thus board was not precluded by res judicata from hearing variance issue.

Prior trial court ruling reversing board of zoning appeals' grant of variance to homeowners regarding wall was insufficient to preclude, via issue preclusion, homeowner's subsequent appeal to board seeking variance under subsequent law; trial court did not issue general ruling that homeowners were not entitled to variance, or even adjudicate whether wall was in fact in violation in the first place, much less whether homeowner's use of the property should be enjoined, and court simply held, as a matter of law, that board had erred.

Board of zoning appeals, in issuing variances, did not operate in manner equivalent to court of competent jurisdiction, and therefore board was not precluded by res judicata from rehearing homeowner's appeal regarding variance following change in zoning law. Case did not involve board invoking principles of res judicata to decline to rehear same case, but involved trial court precluding board from rehearing, and homeowner was allowed to revisit zoning question previously decided in light of changed law.