

# **Bond Case Briefs**

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## **ZONING & LAND USE - MAINE**

### **Olson v. Town of Yarmouth**

**Supreme Judicial Court of Maine - February 22, 2018 - A.3d - 2018 WL 10043022018 ME 27**

Residents sought review of town planning board's approval of a site-plan application for the installation of wireless-communication equipment on a tower and site owned by town water district. The Superior Court affirmed. Residents appealed.

The Supreme Judicial Court of Maine held that:

- Presumption of unsuitability under town ordinance on wireless-communications towers did not attach to proposal, and
- Sufficient evidence supported planning board's determination that application met ordinance standards.

Presumption of unsuitability under town ordinance on wireless-communications towers did not attach to proposal to place wireless-communication equipment on tower and site owned by town water district; one purpose of ordinance was to permit the construction of new towers only where all other opportunities had been exhausted, no language in ordinance stated that its provisions applied to co-location applicants, and interpreting the ordinance to have the presumption of unsuitability attach to the proposal would have produced the illogical result of decreasing the number of sites available to co-location applicants and ultimately would have resulted in the construction of more new towers.

Sufficient evidence supported town planning board's determination that application to place wireless-communication equipment on tower and site owned by town water district met ordinance standards, despite argument that applicant did not investigate other technically feasible sites as required by ordinance; although applicant's written submissions to the planning board did not contain information about alternative sites that it had considered, application included detailed information about applicant's site-selection process, and planning board twice asked applicant's representative about alternative sites.