

Bond Case Briefs

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Mosier v. Village of Holiday Hills

Appellate Court of Illinois, Second District - May 3, 2019 - N.E.3d - 2019 IL App (2d) 180681 - 2019 WL 1975346

After being sued by the county for building a metal pole barn without the requisite county permit, property owners sued village for breach of an oral contract and violation of the Consumer Fraud and Deceptive Business Practices Act, alleging that village's failure to disclose the county's permit requirement when property owners applied for a building permit caused the property owners to spend thousands of dollars defending themselves against the county's lawsuit.

The village moved for involuntary dismissal. The Circuit Court granted village's motion with prejudice. Property owners appealed.

The Appellate Court held that:

- A building permit issued by a municipality does not create a contract between the municipality and the permittee, and
- Village was not engaging in commerce when it issued property owners' building permit, and therefore the Act did not apply.

Village was not engaging in commerce when it serviced property owners' request for a building permit to build a metal pole barn on their property, and therefore Consumer Fraud and Deceptive Business Practices Act did not apply to property owners' action against village for allegedly violating Act by failing to inform property owners of county permit required to build barn; village did not advertise or offer anything for sale or sell anything to property owners, but rather merely collected a fee for permit's issuance pursuant to its power to regulate construction and use of buildings.