

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - NEW HAMPSHIRE

Working Stiff Partners, LLC v. City of Portsmouth

Supreme Court of New Hampshire - September 27, 2019 - A.3d - 2019 WL 4725178

After city issued cease and desist order to property owners that precluded their use of property for short-term rentals, property owners appealed.

The Zoning Board of Adjustment upheld the order. Property owners appealed. The Superior Court affirmed. Property owners appealed.

The Supreme Court held that:

- Zoning ordinance did not permit property owners' short-term rental of the property as a principal use, and
- Property owners failed to establish city ordinance definition of "dwelling unit" was unconstitutionally vague as applied.

Zoning ordinance did not permit property owners' short-term rental of the property as a principal use; the ordinance expressly permitted single-family dwellings and two-family dwellings in the district as principal uses, and owners' rental of the property by providing short-term rentals to guests paying on a daily basis constituted a transient occupancy that was similar to a hotel, motel, or rooming house, which was excluded from the definition of a dwelling unit.

Property owners failed to establish city ordinance definition of "dwelling unit" was unconstitutionally vague as applied; ordinance's definition of "dwelling unit" as a building providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation that did not include such transient occupancies as hotels, motels, or boarding houses, provided owners with a reasonable opportunity to understand that their conduct in using property for short-term rentals was not a permitted use of property, and owners failed to demonstrate that ordinance was so vague that it authorized arbitrary or discriminatory enforcement.