

Bond Case Briefs

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ZONING & PLANNING - OHIO

Litchfield Township Board of Trustees v. Forever Blueberry Barn, L.L.C.

Supreme Court of Ohio - April 21, 2020 - N.E.3d - 2020 WL 1918145 - 2020 -Ohio- 1508

Township board of trustees filed complaint seeking to enjoin owner of property that was designated as residential from using barn for weddings and other social gatherings.

After initially entering injunction, the Court of Common Pleas rescinded injunction based on viticulture zoning exemption. Township appealed. The Ninth District Court of Appeals reversed and remanded. On remand, following a hearing, the Court of Common Pleas again found that owner's barn met requirements for zoning exemption. Township appealed. The Court of Appeals affirmed. Township sought review, and the Supreme Court accepted for review one proposition of law.

The Supreme Court held that trial court properly applied primary-use test in determining that primary use of barn was vinting and selling wine, such that zoning exemption applied.

Trial court properly applied primary-use test when it determined that primary use of property owner's barn, and the events held therein, was to facilitate sale of wine by conditioning the rental of the barn on the purchase of its wine, such that barn, which was located in residential district, was exempt from township's zoning restrictions, under statute providing that township could not regulate zoning of building located on land on which grapes were cultivated that was "used primarily for vinting and selling wine," though only a small percentage of barn's overall space was used for vinting and selling wine; given that winery was in initial stages of production, it was not unreasonable to use barn space for other purposes, and use of space for other purposes did not mean that vinting and selling wine was not barn's primary purpose.