

Bond Case Briefs

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ZONING & PLANNING - OHIO

State ex rel. Armatas v. Plain Township Board of Zoning Appeals

Supreme Court of Ohio - May 19, 2020 - N.E.3d - 2020 WL 2529048 - 2020 -Ohio- 2973

Landowner petitioned for writ of mandamus to compel township zoning inspector to issue written decision about declining to enforce zoning regulation concerning hedges against neighbor and to compel township board of zoning appeals to hear appeal of written decision, after landowner's first mandamus action seeking enforcement of zoning regulation was dismissed due to existence of adequate remedy at law.

The Court of Appeals granted summary judgment for inspector and board. Landowner appealed.

The Supreme Court held that:

- Judgment in first action was a final judgment on the merits for res judicata purposes;
- Second action involved same parties or their privies;
- Second action raised claims that were or could have been litigated in first action; and
- Second action arose out of same transaction or occurrence that was subject of first action.

Judgment in landowner's first mandamus action seeking to compel township zoning inspector to enforce zoning regulation concerning hedges against neighbor was a final judgment on the merits, as was needed to apply res judicata doctrine to bar landowner's second mandamus action, even though court did not address issue of whether neighbor's trees violated zoning regulation, where court dismissed complaint in first action due to existence of an adequate remedy at law in the form of an administrative appeal, making it unnecessary for court to reach landowner's substantive argument.

Landowner's second mandamus action involving township zoning inspector's declining to enforce zoning regulation concerning hedges against neighbor involved the same parties or their privies, as was needed to apply res judicata doctrine to bar second action with respect to inspector, even though first mandamus action was against inspector and township board of trustees and second action was against inspector and township board of zoning appeals, where res judicata was applied only to claim against inspector.

Landowner's second mandamus action involving township zoning inspector's declining to enforce zoning regulation concerning hedges against neighbor raised claims that were or could have been litigated in first mandamus action, as was needed to apply res judicata doctrine to bar second action, where material facts had not changed, and landowner simply was pursuing a new legal theory in an attempt to resurrect his right to an administrative appeal of inspector's decision.

Landowner's second mandamus action involving township zoning inspector's declining to enforce zoning regulation concerning hedges against neighbor arose out of same transaction or occurrence that was subject of first mandamus action, as was needed to apply res judicata doctrine to bar second action, where first action failed because another remedy, in the form of an administrative

appeal, was available for landowner to challenge inspector's decision, township board of zoning appeals dismissed, as untimely, an administrative appeal that landowner eventually filed, and landowner sought, in second mandamus action, an order that he believed would facilitate a timely appeal.