

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Clay v. Douglasville-Douglas County Water and Sewer Authority

Court of Appeals of Georgia - October 16, 2020 - S.E.2d - 2020 WL 6111205

Property owner brought action against county water and sewer authority (WSA), seeking damages for inverse condemnation, various costs, attorney fees, penalties, and other items.

The Superior Court granted defendant's motion to dismiss, and property owner appealed.

The Court of Appeals held that:

- WSA's denial of property owner's request for a variance from its stormwater regulations constituted an administrative determination;
- WSA was a local administrative agency; and
- Property owner was required to file an application for discretionary appeal from superior court's dismissal of his action against the WSA, disapproving *Brownlow v. City of Calhoun*, 198 Ga. App. 710, 402 S.E.2d 788.

County water and sewer authority's (WSA) denial of property owner's request for a variance from its stormwater regulations constituted an "administrative determination" for purposes of the Appellate Practice Act provision governing appeals from state and local administrative agencies; the WSA simply determined that based on the size of property owner's property and the specifics of his proposed construction plans that the applicable stormwater regulations barred him from proceeding without taking corrective measures and that the WSA was not authorized to grant a variance, and as such, the WSA's denial was based on the particulars of property owner's proposal and the decision pertained to his property alone.

County water and sewer authority (WSA) was a "local administrative agency" for purposes of the Appellate Practice Act provision governing appeals from state and local administrative agencies; the legislature established the WSA as a "public body corporate," and its powers included the power to contract with the city with respect to a water and sewage system, to include apportioning or designating the responsibility for any functions normally maintained by a water and sewerage system.

Property owner was required to file an application for discretionary appeal from superior court's dismissal of his action against county water and sewer authority (WSA), even though the action was couched as a claim for inverse condemnation; property owner challenged the WSA's decision by arguing its regulations should not have applied to his property because they had been superseded by federal and state statutory law, and property owner had been heard in two tribunals on the relevant issues, once by an administrative agency, and once by the superior court; disapproving *Brownlow v. City of Calhoun*, 198 Ga. App. 710, 402 S.E.2d 788.

