

Bond Case Briefs

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DEVELOPMENT IMPACT FEES - NORTH CAROLINA

Plantation Building of Wilmington, Inc. v. Town of Leland

Supreme Court of North Carolina - October 29, 2021 - S.E.2d - 2021-NCSC-122 - 2021 WL 5024501

Builder brought action against town seeking refund of all impact fees and capacity fees collected by town as mandatory condition precedent to town issuing building permit.

The Superior Court granted builder's motion for class certification, which had been filed after summary judgment had been granted in builder's favor on issue of liability, and denied town's motion to dismiss for lack of subject matter jurisdiction and two other motions filed by town. Town appealed.

The Supreme Court held that town waived any objection that it may have had to trial court granting builder's motion for class certification after granting builder's motion for summary judgment on issue of liability.

Town waived on appeal any objection that it may have had to trial court granting builder's motion for class certification after granting builder's motion for summary judgment on issue of liability, in builder's action seeking refund of all impact fees and capacity fees collected by town as mandatory condition precedent to town issuing building permit, where motion for continuance filed by builder identified that issue of class certification would be resolved after addressing cross-motions for summary judgment, and expressly stated that both parties to action "join in and consent to this motion," and parties followed that sequence.