

Bond Case Briefs

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Persaud Properties FL Investments, LLC v. Town of Fort Myers Beach

District Court of Appeal of Florida, Second District - December 11, 2020 - 310 So.3d 493 - 45 Fla. L. Weekly D2772

Property owner filed suit against town for declaratory relief, alleging a taking under state law and deprivation of due process under state constitution, and seeking mandatory injunction following town's determination that property owner had abandoned nonconforming use of property which permitted alcohol sale on part of property that extended onto environmentally critical zone.

The Circuit Court granted town's motion for summary judgment on all counts. Property owner appealed.

The District Court of Appeal held that town zoning ordinance included intent element, and thus property owners did not abandon nonconforming use during period of renovations.

Town zoning ordinance which provided that nonconforming use of property in environmentally critical zone specific to sale or service for on premises consumption of alcoholic beverages "may continue until there is an abandonment of permitted location for continuous nine-month period" included an intent element, and thus property owners did not abandon nonconforming use of property during one-year period of closure while renovations and construction were ongoing, where there was no evidence property owners intended to discontinue selling alcohol in environmentally critical zone once renovations were complete.