

Bond Case Briefs

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ZONING & PLANNING - RHODE ISLAND

Nerney v. Town of Smithfield

Supreme Court of Rhode Island - March 4, 2022 - A.3d - 2022 WL 627817

Citizen brought action against town seeking writ of mandamus ordering town to remove several trees and plants that were planted on town's property by neighboring landowners who had a permit for plantings to prevent soil erosion on their property.

The Superior Court granted town's motion to dismiss for failure to state a claim. Citizen appealed.

The Supreme Court held that town's decision as to how to deal with the trees was within town's discretionary authority, and thus, could not serve as basis for issuance of writ of mandamus.

Town's decision as to how to deal with several trees planted on its property by neighboring landowners, who had a permit for plantings to prevent soil erosion on their property, was within town's discretionary authority, and thus, decision could not serve as basis for issuance of writ of mandamus to require town to remove trees; decision was part of town's executive function to enforce the laws and to require neighboring landowners to comply with express terms of their permit.