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ZONING & PLANNING - KANSAS

Pretty Prairie Wind LLC v. Reno County

Court of Appeals of Kansas - August 26, 2022 - P.3d - 2022 WL 3693052

Company that was denied conditional-use permit from county to build wind farm brought action against county challenging denial, alleging that protest petitions submitted by county residents were invalid, and that decision to deny permit was unreasonable.

The District Court denied company's motion for partial summary judgment, denied company's subsequent request to file interlocutory appeal, and, at company's request, dismissed outstanding claim and entered final judgment. Company appealed.

The Court of Appeals held that statutes governing requirements for election petitions did not apply to zoning protest petitions for conditional-use permit to build wind farm.

Statute requiring three-fourths majority of board of county commissioners to overrule planning commission's recommendation when the owners of at least 20% of the land within 1,000 feet of the property at issue sign and file protest petitions within 14 days after the end of the public hearings, rather than statutes governing requirements for election petitions, applied to zoning protest petitions for conditional-use permit for company that sought to build wind farm; language of statutes concerned elections and signature requirements for electors, zoning protest petitions did not trigger public involvement, unlike election petitions, signing requirement for zoning petitions required land ownership, not ability to vote as in election petitions, and zoning petitions were filed with city or county clerk, not election officer.

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