

Bond Case Briefs

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GOVERNMENTAL FUNCTIONS - ALABAMA

Barnes v. Town Council of Perdido Beach

Supreme Court of Alabama - October 21, 2022 - So.3d - 2022 WL 12240411

Objectors sought an injunction to prevent town council from constructing a public boat launch and pier at the end of a public street and establishing a public park in the surrounding area.

After the case was removed to federal court and then remanded, the Circuit Court held a bench trial and then entered a judgment for town council. Objectors appealed.

The Supreme Court held that:

- Construction of the boat launch and pier did not violate the street's public dedication;
- As a matter of apparent first impression, the construction of the boat launch and pier was a governmental function, not a proprietary one, and thus the wetland-setback provisions of city zoning ordinances and subdivision regulations did not preclude the construction project even though it would take place near a creek; and
- That certain amendments to zoning ordinances made it easier for town council to go through with the project did not make the amendments arbitrary.

Town council's construction of a public boat launch and pier at the end of a public street did not violate the street's public dedication; boat launch and pier would be placed where the street ended at the edge of a creek and would not destroy or inhibit the use of the street as a public road.

Town council's construction of a public boat launch and pier near a creek was a "governmental function," not a "proprietary one," and thus the wetland-setback provisions of city zoning ordinances and subdivision regulations did not preclude the construction project; municipalities had delegated authority to provide recreational facilities for the well-being of their citizens, and the town's master plan contained several references to providing public water access and boat launches to the community.

That certain amendments to zoning ordinances made it easier for town council to construct a public boat launch and pier did not make the amendments "arbitrary"; the adoption of the amendments raised questions upon which reasonable differences could exist in view of all the circumstances, and the wisdom of the amendments was fairly debatable.