

Bond Case Briefs

Municipal Finance Law Since 1971

TELECOM - ARIZONA

Vertical Bridge Development LLC v. County of Maricopa

United States District Court, D. Arizona - October 5, 2022 - F.Supp.3d - 2022 WL 5434217

Developer brought a claim against county board of supervisors, alleging that board's decision denying developer's special use permit (SUP) application to build a cellular network tower violated the Telecommunications Act (TCA).

Board moved for partial judgment on the pleadings.

The District Court held that:

- Board's denial of developer's SUP was a decision subject to the TCA, and
- Developer's allegations stated a claim for violation of TCA requirements that the basis of a denial be in writing and supported by substantial evidence.

County board of supervisors' denial of developer's special use permit (SUP) application to build a cellular network tower was a "decision" to deny a request to place personal wireless service facilities subject to the Telecommunication Act's (TCA) requirements that the basis of the denial be stated in writing and supported by substantial evidence, regardless of whether the denial was characterized as a legislative or adjudicative act; the board considered the SUP application, considered the proposed cellular tower site along with specific technical facts, design specifications, and community member opinions, and denied the application.

Developer's allegation that the county board of supervisors denied its special use permit (SUP) application to construct a cellular tower without providing a basis for the denial stated a claim for violation of the Telecommunications Act (TCA) requirement that the basis of a denial of a request to build a wireless service facility be stated in writing.

Developer's allegation that the county board of supervisors denied developer's special use permit (SUP) application to construct a cellular tower based on certain objectors' aesthetic concerns or the rural nature of the area stated a claim for violation of the Telecommunications Act (TCA) requirement that a denial of a request to build a wireless service facility be supported by substantial evidence in a written record.