

# **Bond Case Briefs**

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**MANDAMUS - GEORGIA**

## **BCG Operations, LLC v. Town of Homer**

**Court of Appeals of Georgia - January 26, 2023 - S.E.2d - 2023 WL 412460**

Operator of golf course that purchased property with intent to build clubhouse that would serve liquor filed petition for writ of mandate and complaint for inverse condemnation and damages against town, town council, and town's mayor, stemming from town's refusal to accept operator's application for a distilled spirits consumption license.

The Superior Court granted operator's writ of mandamus, ordered town to process and grant operator's application for liquor license, and subsequently denied operator's motion for partial summary judgment seeking damages related to town's refusal to accept operator's application. Operator appealed and town, town council, and town's mayor cross-appealed.

The Court of Appeals held that:

- Cross-appeal from grant of writ of mandamus and order requiring town to process and grant application was moot;
- Grant of writ of mandamus precluded award of monetary damages;
- Statute requiring showing of pecuniary loss for which compensation in damages was unavailable to enforce private right of action by mandamus supported determination that grant of mandamus precluded award of damages; and
- Even if reliance on statute in denying award of monetary damages was error, denying award of damages was not erroneous.

Statute requiring plaintiff to show pecuniary loss for which compensation in damages was unavailable to enforce a private right by mandamus supported determination that grant of writ of mandamus in favor of operator of golf course, seeking order requiring town to process and grant operator's application for distilled spirits consumption license, precluded award of monetary damages based on delay in issuing license; the right associated with a license to sell liquor by the drink was in the nature of a private right to the individual, rather than a public right of the citizens as a whole.

Even if trial court was mistaken in relying on statute requiring plaintiff to show pecuniary loss for which compensation in damages was unavailable to enforce a private right by mandamus to support determination that grant of writ of mandamus in favor of operator of golf course, seeking order requiring town to process and grant operator's application for distilled spirits consumption license, precluded award of monetary damages due to town's delay in issuing license, denial of monetary damages award was not erroneous, since denial was also based on alternative, independent reasoning; trial court denied award of monetary damages on basis that awarding damages in addition to mandamus would amount to an impermissible stacking of remedies.