

Bond Case Briefs

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Heritage Hunter Knoll, LLC v. Lamar County

Supreme Court of Mississippi - February 9, 2023 - So.3d - 2023 WL 1854308

Following federal court settlement and denial of its proposed variances from county ordinance denying waste collection and disposal services for multi-family properties, property owner brought action to appeal county board of supervisors decisions to amend ordinance to deny waste collection and disposal services and to deny proposed variances.

The Circuit Court dismissed the appeal for lack of jurisdiction, and property owner appealed.

The Supreme Court held that:

- Appeal of board's amendment of ordinance was untimely;
- Appeal of the variance denials was timely; and
- Property owner did not engage in improper claim splitting when it filed a notice of appeal as well as federal action.

Denial of two of property owner's requested variances from ordinance denying waste collection and disposal services for multi-family properties finally disposed of the controversy such that property owner had ten days from that date to appeal board's amendment of ordinance to deny waste collection and disposal services; letter from board advised property owner that anyone "affected or aggrieved by" the amendment could apply for a variance, property owner thereafter submitted three variance requests, and the board denied two of the variance requests, but property owner did not appeal the amendment for another four months.

Property owner filed appeal of county's denial of its two resubmitted requests for variances from county ordinance denying waste collection and disposal services for multi-family properties within ten days of the decision of the county board of adjustment, and thus appeal of the variance denials was timely; as part of federal court settlement, property owner resubmitted variance requests, which county board of supervisors had previously denied, and, on resubmission, the board denied the variance requests a second time.

Property owner did not engage in improper claim splitting when it filed a notice of appeal regarding county board of supervisors amendment to ordinance denying waste collection and disposal services for multi-family properties and the denial of property owner's variance requests, and in separate federal action asserted causes of action for violations of due process and equal protection, although some of property owner's claims asserted in its federal case were incorporated in the issues presented in its appeal; notice of appeal asserted that the board's amendment to the waste ordinance was arbitrary and capricious, beyond the board's scope and power, and in violation of statutory and constitutional rights, and property owner further asserted that the denial of its variance requests was arbitrary and capricious.

