

# **Bond Case Briefs**

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## **ZONING & PLANNING - MAINE**

### **Tominsky v. Ogunquit**

**Supreme Judicial Court of Maine - May 23, 2023 - A.3d - 2023 WL 3590162 - 2023 ME 30**

Property owner filed two appeals in the Superior Court, the first challenging code enforcement officer's issuance of building permits for six dwelling units on abutting property, and the second challenging the issuance of a certificate of occupancy for one of the dwelling units. Permittee filed appeal challenging town board of appeals' granting of good cause exception to owner for his untimely administrative appeal of the building permits.

The Superior Court denied owner's first appeal, dismissed owner's second appeal, and denied permittee's appeal. Owner and permittee appealed the decisions, and the appeals were consolidated for review.

The Supreme Judicial Court held that:

- As a matter of first impression, party that has obtained municipal approval need not and should not file its own appeal or cross-appeal to challenge the application of good cause exception to deadline for filing administrative appeal;
- Permittee lacked standing to file appeal town board of appeals' decision denying owner's appeal on the merits;
- Owner's mistaken belief of law was not an extraordinary circumstance that would result in flagrant miscarriage of justice that could excuse his delay in filing appeal to town board of appeals; and
- Issuance of certificate of occupancy was not an appealable event.