

Bond Case Briefs

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ZONING & PLANNING - SOUTH CAROLINA

Ani Creation, Inc. v. City of Myrtle Beach Board of Zoning Appeals

Supreme Court of South Carolina - June 28, 2023 - S.E.2d - 2023 WL 4221865

Operators of smoke shops and tobacco stores petitioned for review of decision of city board of zoning appeals denying operators' constitutional challenges to zoning overlay ordinance that prohibited operation of smoke shops and tobacco stores, among others, in city's historic downtown.

The Circuit Court affirmed. Store operators appealed.

On rehearing, the Supreme Court held that:

- Two readings of ordinance were not so different that third reading was required prior to enactment of ordinance;
- As matter of first impression, creation of municipal zoning overlay district did not constitute impermissible reverse spot zoning;
- Even assuming that municipal zoning overlay district constituted spot zoning, any such spot zoning was permissible;
- Boundaries of zoning overlay district had a rational basis and thus did not violate store operators' equal protection rights;
- Ordinance did not violate store operators' due process rights due to failure to explicitly provide for a hearing for an affected vendor;
- Operators failed to establish that ordinance constituted an unconstitutional taking; and
- Ordinance was not preempted by state criminal laws.