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City of Orange Beach v. Boles

Supreme Court of Alabama - June 16, 2023 - So.3d - 2023 WL 4038455

Property owner who had obtained building permits for multiple-level duplexes and a single-family dwelling brought action as to the duplexes against city and city's "chief building official," asserting claims for declaratory relief, injunctive, and monetary damages stemming from city's refusal to conduct a meter-release inspection until property owner returned a completed form listing information, including financial information, about subcontractors used.

The Circuit Court entered a preliminary injunction directing the city to conduct an electrical and meter-release inspection. Subsequently, city commenced its own action as to the single-family dwelling for a judgment declaring that its "chief building official" was authorized to require a building-permit holder to provide a completed subcontractor form for a permitted project and that the city was authorized to withhold scheduling meter-release inspections and/or a certificate of occupancy until the completed subcontractor form was provided.

Property owner filed counterclaims for injunctive relief, declaratory relief, and damages. The cases were consolidated on property owner's motion despite city's objection, and property owner was then permitted to demand a jury trial on his counterclaims.

After property owner settled his claims against city's "chief building official" and withdrew any claims for punitive damages, the Circuit Court entered judgment on a jury verdict for property owner. City appealed in each case, and the appeals were consolidated.

The Supreme Court held that the city had substantive immunity from property owner's claims.

City had substantive immunity from liability to property owner, who had obtained building permits for multiple-level duplexes and a single-family dwelling, in regard to its requirement that building-permit holders submit information, including financial information, about subcontractors before it would conduct the required meter-release inspection; the meter-release inspections were aimed at promoting public safety, and any resultant duty to perform the inspections was owed to the public at large rather than to any individual property owner.

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