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ZONING & PLANNING - GEORGIA

Hall County v. Cook Communities

Court of Appeals of Georgia - June 29, 2023 - S.E.2d - 2023 WL 4246126

Property developer filed lawsuit against county and its commissioners, in their individual capacities, challenging a rezoning decision and seeking declaratory, injunctive, and mandamus relief.

The Superior Court denied county's motion to dismiss developer's direct action, ultimately concluding that local zoning authority's decision on developer's request to rezone its property was legislative rather than quasi-judicial. County filed an application for interlocutory review, which the Court of Appeals granted.

The Court of Appeals held that county's rezoning decision was legislative, not quasi-judicial, and thus, proper method for property developer to challenge constitutionality of that decision was to file suit in Superior Court.

County's rezoning decision was legislative, not quasi-judicial, and thus, proper method for property developer to challenge constitutionality of that decision was to file suit in Superior Court, which could then conduct a de novo review, as developer was not limited to review of that decision by writ of certiorari; developer, alleging that rezoning conditions imposed an unconstitutional taking of its property and seeking declaratory, injunctive, and mandamus relief, presented a constitutional attack against conditions that county attached to approval of developer's application to rezone, which essentially amounted to a denial of its rezoning request.

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