

Bond Case Briefs

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PUBLIC CONTRACTS - SOUTH CAROLINA

Buonaiuto v. Town of Hilton Head Island

Court of Appeals of South Carolina - June 14, 2023 - S.E.2d - 2023 WL 3985220

Protestant brought action against town, seeking declaration that town violated its procurement code because it failed to publicly bid or subject its contract with chamber of commerce to its code, rescission of town's contract, an injunction requiring town to subject any proposed contract to its code, and an award of costs and attorney's fees.

On cross-motions for summary judgment, the Court of Common Pleas entered summary judgment in favor of town. Protestant appealed.

The Court of Appeals held that town's procurement code did not govern town's contract with chamber of commerce to manage and direct expenditure of statutorily-mandated special fund for advertising and promotion of tourism.

Town's procurement code did not govern town's contract with chamber of commerce which, among other things, included managing and directing expenditure of a statutorily-mandated special fund for advertising and promotion of tourism, though contract required chamber to submit a budget of planned expenditures and subsequent accounting of expenditures, submit designated marketing organization report and marketing plan, and submit tourism metrics; town's intent in enacting procurement code was to enable bidding process for receipt of funds in exchange for services rendered to town, and town officials and chamber's president and chief operating officer stated that purpose of the contract was to ensure chamber met compliance and operating standards rather than to procure services.