

Bond Case Briefs

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EMINENT DOMAIN - LOUISIANA

3000-3032 St. Claude Avenue, LLC v. City of New Orleans

Court of Appeal of Louisiana, Fourth Circuit - June 22, 2023 - So.3d - 2023 WL 4117342 - 2022-0813 (La.App. 4 Cir. 6/22/23)

Owner of split-zoned lots filed a petition for judicial review of city council's denial of owner's request to rezone rear portions of lots, which were zoned commercial in front and residential in back, to apply a single commercial zoning designation to enable construction of hotel project.

The District Court remanded the matter back to city council for further review and to clarify basis for its decision. City filed a motion for suspensive appeal, which the District Court granted. After city filed appeal, the Court of Appeal converted the appeal to an application for supervisory writs, and the Court of Appeal issued writ opinion denying relief and remanding to city council. After city council again denied zoning amendment, lot owner filed amended petition for judicial review. The District Court granted the amended petition, and city timely filed a motion for suspensive appeal.

The Court of Appeal held that:

- Trial court improperly shifted burden from landowners to city council to demonstrate why its denial of rezoning request was in fact not arbitrary and capricious;
- As a matter of first impression, split-zoning is not per se invalid; and
- Denial of rezoning request was not arbitrary and capricious, or characterized by an abuse of discretion, and thus did not constitute a taking.