
MUNICIPAL ORDINANCE - INDIANA

Noblesville, Indiana Board of Zoning Appeals v. FMG Indianapolis, LLC

Supreme Court of Indiana - September 25, 2023 - N.E.3d - 2023 WL 6209522

Pole sign owner appealed decision of the city board of zoning appeals which affirmed a stop work order and notice of violation issued by city which addressed work performed on the sign after it was damaged by a storm.

The Superior Court reversed, and board appealed. The Superior Court reversed, and city board appealed. The Court of Appeals reversed with directions, and owner petitioned to transfer decision.

The Supreme Court held that ordinance governing nonconforming signs was ambiguous as to the meaning of the term "relocate," and thus the term was to be construed in favor of pole sign owner.

Ordinances regulating signs, which indicated such signs lost their legal nonconforming status if they were "relocated," was ambiguous as to the meaning of the term "relocate," and thus the term was to be construed in favor of pole sign owner and owner's movement of sign posts 18 to 36 inches behind their original location, after original posts were damaged by a storm, did not constitute a "relocation" that would cause signs to lose their legal nonconforming status.

Pole sign owner was entitled to award of costs in action challenging city board of zoning appeals order finding that owner had relocated billboard sign by replacing sign posts, which had been damaged in storm, with posts installed 18 to 36 inches away from original posts, causing sign to lose is nonconforming legal status; in addition to judicial review of board's decision, pole sign owner sought prospective declaratory relief and costs, which would ensure sign would retain its legal nonconforming status and allow owner to complete maintenance to sign, which been halted due to stop work order issued by city, outside of the six-month deadline for sign repairs stated in ordinance.

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