
ZONING & PLANNING - GEORGIA

Morgan County Hospital Authority v. City of Madison

Court of Appeals of Georgia - October 27, 2023 - S.E.2d - 2023 WL 7101211

County hospital authority brought action against city for declaratory judgment that it could sell acute care hospital for operation of acute drug and alcohol treatment facility without purchaser obtaining a conditional use permit (CUP).

The Superior Court ruled in favor of city. Hospital authority appealed.

The Court of Appeals held that:

- Justiciable controversy existed for declaratory judgment action;
- The planned treatment facility was "hospital" within meaning of city zoning ordinance permitting hospitals; and
- Hospital authority did not abandon facility.

City's change in ordinance so that purchaser of property from county hospital authority needed conditional use permit (CUP) to operate acute drug and alcohol treatment facility created a sufficient justiciable controversy necessary for hospital's declaratory judgment action; hospital marketed the property to prospective purchasers for a number of years, reaching at least two asking-price offers, and it has been prevented from closing by city's insistence that purchaser obtain a CUP.

Acute drug and alcohol treatment facility to be operated by purchaser after sale by county hospital authority was "hospital" within meaning of city zoning ordinance permitting hospitals; the treatment facility would provide medical and psychological care to patients, and hospital authority had conducted a wide array of services at the facility, including treatment of individuals with drug and alcohol addiction.

County hospital authority did not abandon facility that it was trying to sell for operation of acute drug and alcohol treatment facility, and, thus, requirement that purchaser obtain conditional use permit (CUP) did not apply, where hospital authority continued to house some hospital operations at the property even though full variety of hospital services did not currently occur at that location, and it had spent over $100,000 a year maintaining the facilities and could restart full operations in a matter of days if necessary.

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