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SURETY BOND - GEORGIA

[Clay v. State](#)

Court of Appeals of Georgia - February 2, 2024 - 370 Ga.App. 482 - 897 S.E.2d 886

Residents who owned, leased, and lived on property zoned for agricultural use filed action against state, seeking declaratory judgment that development and construction of electric vehicle manufacturing facilities on state-owned property violated local and state law, and seeking injunction to halt project. State filed counterclaim seeking declaratory relief that zoning ordinances did not apply and moved for surety bond.

Following hearing, the Superior Court granted motion for bond and ordered residents to post surety bond in amount of \$364,619.55. Residents appealed.

The Court of Appeals held that:

- Trial court did not improperly shift burden of proof to residents to show why surety bond should not be granted, but
- Imposition of bond was improper where trial court failed to address whether all claims asserted by residents were meritorious.

Court of Appeals had jurisdiction to review grant of motion for surety bond on interlocutory review in action filed by residents who owned, leased, and lived on property zoned for agricultural use against state seeking declaratory judgment that development and construction of electric vehicle manufacturing facilities on state-owned property violated local and state law, and seeking injunction to halt project, where order was subject to direct appeal but residents did not file notice of appeal until after grant of interlocutory review.

Residents who owned, leased, and lived on property zoned for agricultural use abandoned argument for review that project to develop and construct electric vehicle manufacturing facilities on state-owned property did not involve political subdivisions and that action was not a public lawsuit, as would preclude imposition of surety bond on residents in action against state seeking declaratory judgment that project violated local and state law and seeking injunction to halt project; while residents challenged state's contention that project involved political subdivisions and that action was a public lawsuit at bond hearing, residents did not contest trial court's findings on appeal.

Use of state-owned land to develop and construct electric vehicle manufacturing facilities qualified as a government purpose, as would support grant of state's request for surety bond in action filed by residents who owned, leased, and lived on property zoned for agricultural use against state, seeking declaratory judgment that project violated local and state law and seeking injunction to halt project; project would provide extensive economic benefits to state through employment opportunities and additional tax revenue, as well as increased construction jobs, housing, and retail development.

Trial court did not improperly shift burden of proof to residents who owned, leased, and lived on property zoned for agricultural use to show why surety bond should not be granted in action filed by residents against state, seeking declaratory judgment that project to develop and construct electric

vehicle manufacturing facilities on state-owned property violated local and state law and seeking injunction to halt project; court placed burden on residents to show why bond should not be granted after first determining whether state had met its burden to show it was a political subdivision, that the lawsuit qualified as a public lawsuit to justify imposition of bond, that the claims lacked merit, and that the bond was in the public interest, which was consistent with statutory requirements.

Imposition of surety bond against residents who owned, leased, and lived on property zoned for agricultural use was improper in action against state seeking declaratory judgment that project to develop and construct electric vehicle manufacturing facilities on state-owned property violated local and state law and seeking injunction to halt project, where trial court determined that state was likely to prevail by focusing only on claims regarding zoning issues without considering merits of other arguments asserted by residents, and it appeared from the record that at least one claim had merit.