

Bond Case Briefs

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Fleming v. Carmichael

West Virginia Intermediate Court of Appeals - May 13, 2024 - S.E.2d - 2024 WL 2126810

Residents of town which included area designated as tourism development district (TDD) under Tourism Development District Act brought action against Secretary of Department of Commerce and Director of Department of Economic Development in their official capacities, seeking to have Act declared void and to obtain injunction prohibiting Act's enforcement based on alleged constitutional violations.

The Circuit Court granted Secretary and Director's motion to dismiss and found that Act was constitutional. Residents appealed.

The Intermediate Court of Appeals held that:

- Act was "general law," and not constitutionally void "special legislation";
- Act was rationally related to achieve proper governmental purpose, and thus, was constitutional on equal protection grounds;
- Act did not impermissibly infringe upon constitutional rights of residents to regulate and control their town; and
- Act did nothing which would contravene anyone's constitutional right to vote in municipal elections.