

# **Bond Case Briefs**

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## **ZONING & PLANNING - ALABAMA**

### **City of Helena v. Pelham Board of Education**

**Supreme Court of Alabama - August 2, 2024 - So.3d - 2024 WL 3629519**

City filed a complaint against board of education of neighboring city, seeking declaratory and injunctive relief based on its proposition that the board's construction of athletic fields on land that board owned but that was located within plaintiff's city corporate limits violated plaintiff city's zoning ordinance.

Board filed a counterclaim seeking monetary damages and declaratory and injunctive relief based on its claim that it was not subject to plaintiff city's zoning ordinance.

The Circuit Court granted the board a preliminary injunction. Plaintiff city appealed. The Supreme Court reversed and remanded. On remand, the Circuit Court entered judgment that plaintiff city lacked the authority to enforce its zoning ordinance against the athletic-field-construction project. Plaintiff city appealed.

The Supreme Court held that:

- The judgment was appealable as an interlocutory order on a request for injunctive relief;
- Statute stating general powers of a city board of education did not preclude the board from pursuing the athletic-field-construction project; and
- City was not permitted to enforce its zoning ordinance as to the project.

Trial court's judgment that city lacked authority to enforce its zoning ordinance against neighboring city's board of education as to board's construction of athletic fields on land that board owned and that was within city's corporate limits was appealable as an interlocutory order on a request for injunctive relief, even though court ostensibly was granting declaratory relief; both sides in the dispute had sought injunctive relief, trial court refused city's request for an injunction, and the order appeared, at least in part, to be injunctive in nature since it required city not to enforce its zoning ordinance with respect to the particular property and it expressly explained why board had sustained an irreparable injury and also lacked an adequate remedy at law.

Statute stating general powers of a city board of education did not preclude city board from constructing athletic fields on land that board owned but that was within a neighboring city's corporate limits; statute granted board all powers necessary or proper for administration and management of high school, which was located within corporate limits of board's city, those powers included purchase of property and development of property for management of high school, and statute did not set territorial limits on board's powers.

City was not permitted to enforce its zoning ordinance against property that was within city's corporate limits but that neighboring city's board of education owned and wished to develop into athletic fields; city boards of education, in their governance of public education, were agencies of the State, and board's construction of athletic fields on the property constituted the State operating in city's territory.

