

Bond Case Briefs

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ZONING & PLANNING - ALASKA

Griswold v. City of Homer

Supreme Court of Alaska - September 20, 2024 - P.3d - 2024 WL 4246636

Neighbor of property owners who placed shipping container on their property to use as a vacation home sought judicial review of city board of adjustment's decision upholding city planning commission's decision upholding zoning permit issued to property owners.

The Superior Court affirmed and granted city's motion for attorney fees and costs. Neighbor appealed.

The Supreme Court held that:

- Board's interpretation of zoning code provisions to mean that a detached accessory dwelling unit that was a single-family residence was permitted without a conditional use permit was reasonable;
- Board had reasonable basis to conclude that property owner's shipping container was incidental and subordinate to mobile home, and thus constituted an "accessory detached dwelling unit" that did not require a special use permit;
- Board had reasonable basis for concluding that shipping container used by property owners as vacation home was not a nuisance;
- Zoning code requirement of stating the zoning use classification on an application for a zoning permit was "directory," rather than mandatory, such that only substantial compliance with the requirement was required;
- Owners' application for zoning permit substantially complied with requirement that applications state the zoning code use classification under which the permit is sought;
- City's decision to impose fine on property owners for failing to obtain permit before placing shipping container on their property, rather than denying zoning permit, did not constitute a prohibited waiver of the zoning code requirements; and
- Neighbor failed to show that member of city's planning commission held a disqualifying partiality against him.