

Bond Case Briefs

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ZONING & PLANNING - MONTANA

Atkinson v. City of Livingston

Supreme Court of Montana - February 10, 2026 - P.3d - 2026 WL 369737 - 2026 MT 21

Homeowners brought action against city, alleging negligence and negligent misrepresentation arising from city's issuance of building permit for construction of home in subdivision and failure to disclose known adverse soil conditions in subdivision.

The District Court granted city's motion for summary judgment. Homeowners appealed.

The Supreme Court held that:

- City's permitting and inspection activities fell within language encompassing "planning" and "inspection" in ten-year statute of repose for actions for damages arising out of design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property, and thus statute of repose applied to homeowners' claims;
- Statute of repose began to run when city issued its statement of substantial completion;
- Statute of repose does not contain exemption that precludes municipalities from protection;
- Statute of repose's exception for claims founded upon an instrument in writing did not apply;
- Statute of repose's exception for action for damages for injury that occurred during tenth year did not apply; and
- Statute of repose's exception for claims concerning responsibility of owner, tenant, or person in actual possession and control of improvement did not apply.