

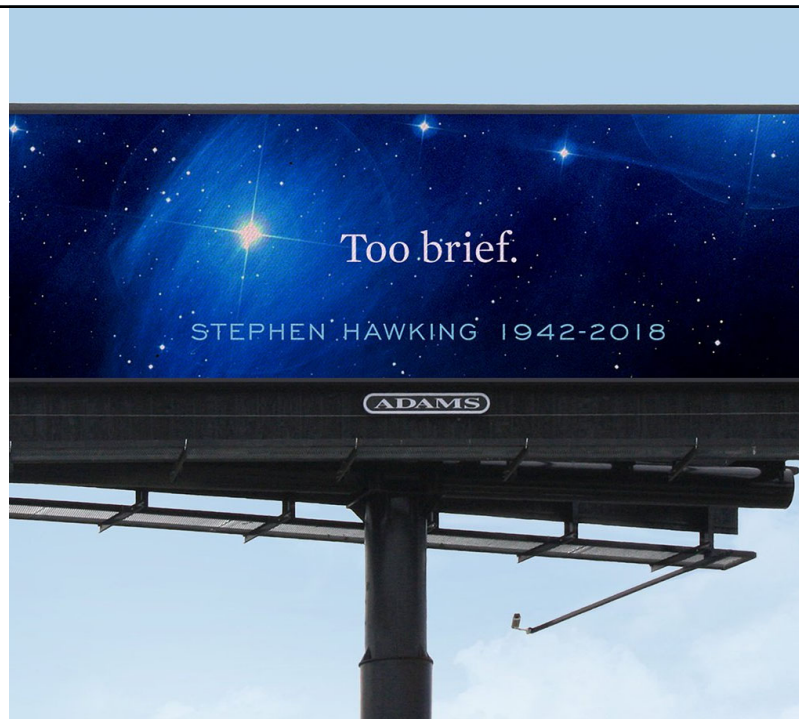


Sign Ordinances

- *Adams Outdoor Advertising v. City of Fitchburg*, 2016AP2487

- Court of Appeals, Feb. 1, 2018
- Unpublished decision
- But a good example of a routine statutory interpretation case
- City denied permit to convert existing billboard to digital
- Both the circuit court and the court of appeals upheld the city's "reasonable" interpretation of its sign code

CARLSON BLACK



Agricultural Use-Value

- *Ogden Family Trust v. Town of Delafield Board of Review*
2018 WI AP 26
 - WI Court of Appeals, Mar. 7, 2018
 - Another example of a statutory interpretation case.
 - Assessor determined no “agricultural use” because he found insufficient evidence of a business purpose
 - Court of Appeals reversed, holding that no business purpose is required for ag use-value assessment

CARLSON BLACK



Agricultural Use-Value

- *Thoma v. Village of Slinger*
2018 WI 45
 - WI Supreme Court, May 10, 2018
 - Thoma purchase land for residential development
 - Entered into a development agreement that prohibited agricultural land.
 - The classification of real property for tax purposes is based on the actual use of the property.
 - Use restriction notwithstanding, Thoma didn't present any evidence that the property was used for agriculture.

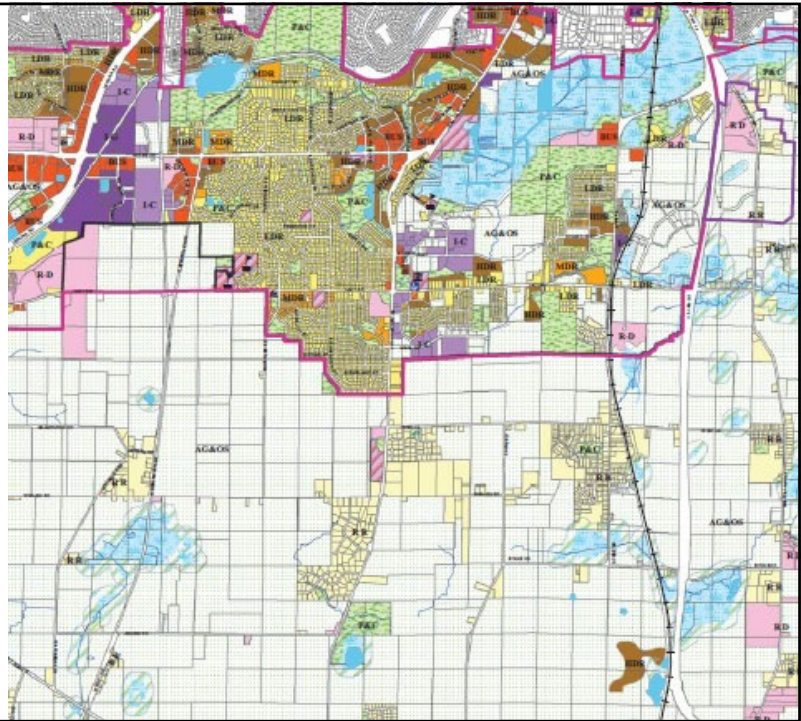
CARLSON BLACK



Vested Rights

- *McKee v. City of Fitchburg*
2017 WI 34
 - WI Supreme Court, April 12, 2017
 - No right to rely on existing zoning, even a PUD/PDD/GDP/GIP
 - Must comply with Wisconsin's bright-line building permit rule in order to obtain vested rights
 - Doctrine of vested rights is all about proceeding based on reasonable expectations
 - There is a balance between muni's need to regulate land use and a property owner's interest in developing their land as allowed under existing law
 - Muni is free to change land use rules *up until the point when the owner obtains a building permit.*
 - *But see* Wisconsin's (relatively) new vested rights statute: Wis. Stat. § 66.10015(1)(a).

CARLSON BLACK



Vested Rights

- *Golden Sands Dairy v. Town of Saratoga*
2018 WI 61
 - WI Supreme Court, June 5, 2018
 - "the rights vested by a building permit application are to develop the land, not merely build structures"
 - "to separate structures from their associated land would be to allow zoning authorities to circumvent the Building Permit Rule by enacting restrictive zoning regulations on land that is necessary to give the buildings value"

CARLSON BLACK



Conditional Uses

- *Green Valley Investments v. County of Winnebago* 2017AP495

- Court of Appeals, Feb. 7, 2018
- Unpublished decision
- But highlights the importance of “severability” language in ordinances
- Green Valley argued that the permitting process in the County’s adult zoning ordinance was unconstitutional and it was therefore entitled to disregard the entire ordinance
- Court severed the unconstitutional provision from the rest and held Green Valley has no vested right to continue its operation, begun in knowing violation of the ordinance

CARLSON BLACK

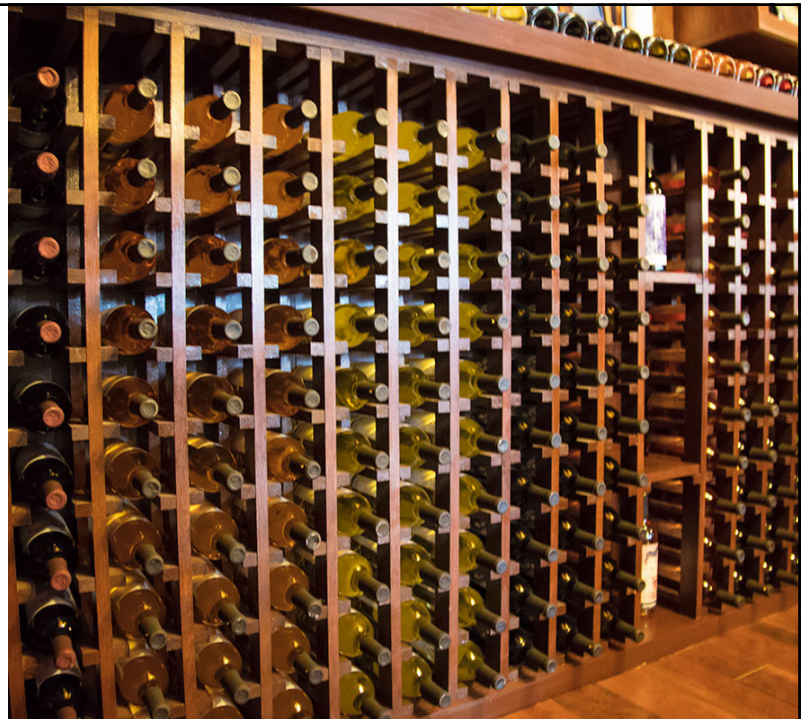


Conditional Uses

- *Zelman v. Town of Erin* 2018 WL 3391939

- Court of Appeals, Jul 11, 2018
- Case involves the timeliness of a challenge to a CUP
- Town argued that the 30-day clock started from the day of the oral decision at the hearing
- Court ultimately held that, based on the facts in this case [where it took time for the town to produce written CUP and where the town required the CUP to be recorded], the 30-day period for appeal didn’t start until the CUP was filed with the Register of Deeds

CARLSON BLACK



Fences

- *White v. City of Watertown*
2017 WI App 78
 - Court of Appeals, Oct. 12, 2017
 - Statutory interpretation case involving a fence dispute
 - Ch. 90 regulates partition fences on farming and grazing land
 - Statutory interpretation case
 - Resolved using legislative history
 - Cities/villages are required to administer/enforce provisions of ch. 90 in the same way towns are required to do so.

CARLSON BLACK

