

STATEMENT OF THE ISSUES

1. **What date shall be used to determine when a complete application for a Concentrated Animal Feeding Operation was submitted to the County?**

The Trial Court ruled that the application was changed by Elliott during the time the application was pending, giving rise to the withdrawal of previous applications and the submission of a new application.

Appellant Contends: Elliott's Building Permit Application was Complete and Effective on August 31, 2001. Subsequent changes were not considered material nor did the County suggest they would change the effective date of the application. Ruling otherwise constitutes clear error.

2. **What law applies: the law in place at the time of initial application or the revised law passed while the application was held up by the County?**

The Trial Court erroneously applied the facts set forth above and determined that the revised zoning regulations applied. Alternatively, it determined that under the old regulations, the denial of the permit was supported by some evidence.

Appellant Contends: The 2001 Pre-Moratorium Ordinances and Regulations Apply to Elliott's Building Permit Application. There was no discretion to deny the permit under those standards, and application of new standards is inappropriate in this case. The trial court ruling is contrary to the SD Constitution.