

MONDAY, MARCH 22, 2010
11:00 A.M.

NO. 3

#25409

PERDUE, INC., a South Dakota
Corporation; RP SOUTH DAKOTA
REAL ESTATE LIMITED PARTNERSHIP,
a South Dakota Corporation;
DONALD PERDUE; and RICHARD
PERDUE,
Plaintiffs and Appellants,

vs.

M. MICHAEL ROUNDS, Governor of the
State of South Dakota; TIM REISCH,
Secretary of the South Dakota
Department of Corrections; DON A.
TEMPLETON, Executive Secretary of
the South Dakota Building Authority;
and AMES & LAMPY, LLC, a South Dakota
Limited Liability Company,
Defendants and Appellees.

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(FOR APPELLANTS)

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(FOR APPELLEES ROUNDS,
REISCH & TEMPLETON)

The Honorable A. Peter Fuller
Seventh Judicial Circuit
Pennington County

(CIV 09-1074)

STATEMENT OF THE LEGAL ISSUES

1. Whether the trial court erred in entering Findings of Fact, Conclusions of Law, and Judgment that HB 1271 was not violated when a purchase agreement for real property was executed before the legislatively mandated public meetings were held - HB 1271 required that public meetings be held *prior to* the purchase of real property.

HB 1271 required that public meetings be held prior to the purchase of real property for a prison site in Rapid City, South Dakota. The trial court ruled that the execution of a purchase agreement before the meetings were held did not violate HB 1271.

Most Relevant Authority.

Black's Law Dictionary 1235 (6th Ed. 1990).

First Nat. Bank & Trust Co. of Chickasha v. U.S., 462 F.2d 908 (10th Cir. 1972).

By Lo Oil Company v. Department of Treasury, 703 N.W.2d 822 (Mich. App. 2005).

Fonder v. City of South Sioux Falls, 71 N.W.2d 618 (S.D. 1955).

2. Whether the trial court erred in not admitting the testimony of Marvin Howell who described the harm his manufacturing company experienced under circumstances similar to those faced by Perdues – a prison being allowed in an industrial district.

In an offer of proof, Marvin Howell explained how his manufacturing company was adversely impacted under circumstances similar to those faced by Perdues – allowing a prison to locate in its industrial district. The trial court rejected the offer and Mr. Howell's testimony.

Most Relevant Authority.

SDCL § 19-12-1

SDCL § 19-12-2

Supreme Pork, Inc. v. Master Blaster, Inc., 2009 SD 20, 764 N.W.2d 474.