

# **Bond Case Briefs**

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## **DEEDS - NORTH CAROLINA**

### **Town of Belhaven, NC v. Pantego Creek, LLC**

**Court of Appeals of North Carolina - November 15, 2016 - S.E.2d - 2016 WL 6694585**

Town, civil rights organization, and others brought action against operators of closed hospital for breach of contract, declaratory judgment, fraud, unfair and deceptive trade practices, breach of fiduciary duty, and civil rights violations.

After case was designated as exceptional, operators filed motion to dismiss for failure to state a claim. The Superior Court granted the motion, and town and others appealed.

The Court of Appeals held that:

- Land which town had deeded for construction and operation of hospital did not revert to town after hospital was closed
- Under mediation agreement, operator had right to close hospital if, by certain date, community board had not legally assumed responsibility for hospital's operation;
- Plaintiffs were not parties to or third-party beneficiaries of agreements and deeds among hospital operators;
- Plaintiffs lacked standing to bring unfair and deceptive trade practices claims;
- Civil rights organization lacked standing to bring claim for violations of civil rights statutes; and
- Court lacked jurisdiction consider whether plaintiffs were denied right to a fair and impartial hearing through designation of case as an exceptional case.

Under deed, land which town had deeded to grantee to construct and operate a hospital did not revert to town after hospital was closed, even if town had a public purpose in mind at the time it conveyed the property, where deed provided that grantee was to have and hold the property "in fee simple," and deed did not contain any express reversionary interest.

Town, as grantor of hospital land, could not maintain breach of contract and declaratory judgment claims against grantee and its successors based on alleged breach of deed's hospital use restrictions, where deed conveyed title in fee simple, and grantee held property for well over 30 years.

Under mediation agreement with town and civil rights organizations, hospital operator had right to close hospital if, by certain date, community board had not legally assumed responsibility for hospital's operation, and thus operator's act in closing hospital on that date after board failed to assume control did not constitute fraud, despite claim that operator had secret plans to close and demolish hospital and build new clinics nearby.

Town and civil rights organizations were not parties to or third-party beneficiaries of agreements and deeds among hospital operator and successors, and thus did not suffer any damages from those agreements as required to have standing to maintain fraud claim against operator and successors following closure of hospital; agreements expressly provided that they were not intended to be third-party beneficiary agreements.

Hospital operators did not commit any fraud or deception, as required for town and others to maintain claim for unfair or deceptive trade practices, when they closed hospital pursuant to mediation agreement with town which called for closure of hospital if community board failed to take over operation of hospital by certain date.

Town and civil rights organizations which had entered into mediation agreement with hospital operator which allowed closure of hospital if community board did not assume operation of hospital by certain date lacked standing to bring unfair and deceptive trade practices claim against operator, where there was no business relationship between plaintiffs and operator, plaintiffs were not customers of operator, and plaintiffs did not plead any injury in fact beyond the mere abstract allegation that "Plaintiffs suffered actual injury as a result" of operator's conduct.

Civil rights group lacked standing to bring action against operator of closed hospital for violations of civil rights statutes, as statutes only granted individually aggrieved persons or the North Carolina Human Relations Commission standing to bring an action.

Court of Appeals lacked jurisdiction consider whether plaintiffs were denied right to a fair and impartial hearing when the Chief Justice of the Supreme Court designated case as an exceptional case, as Superior Court had no jurisdiction to overrule a command of the Supreme Court and jurisdiction of the Court of Appeals was derivative of the Superior Court's jurisdiction.