

# **Bond Case Briefs**

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## **ZONING & LAND USE - NEW YORK**

### **Avella v. City of New York**

**Court of Appeals of New York - June 6, 2017 - N.E.3d - 2017 WL 2427307 - 2017 N.Y. Slip Op. 04383**

Hybrid Article 78 proceeding was brought against city and others, seeking injunctive and declaratory relief from proposed private development project that included construction of a large-scale retail complex and other facilities on parkland.

The Supreme Court, New York County, dismissed, and plaintiffs appealed. The Supreme Court, Appellate Division reversed. Appeal was taken.

The Court of Appeals held that proposed new developments on previously-authorized stadium site violated the public trust doctrine.

Legislative history of statute authorizing previous stadium project on site of parkland unambiguously demonstrated that the legislation did not authorize further non-public commercial developments on the tract of parkland but, rather, ensured that city was authorized to accommodate other public uses of the stadium and appurtenant facilities, and thus proposed new developments on the site violated the public trust doctrine. Legislative history demonstrated that the statute was intended to authorize the lease, rental or licensing of the stadium, not the construction of unrelated facilities, and that city requested the legislation to grant it the right to rent the stadium to private entities, not to construct new and unrelated facilities for private business purposes.