[Bond Case Briefs](#)

Municipal Finance Law Since 1971

[Appellate Division Clarifies NJ State University's Qualified Immunity From Local Land Use Regulation.](#)

The Appellate Division recently reaffirmed and clarified the concept of a public university's qualified immunity from local land use regulations initially espoused in the New Jersey Supreme Court's seminal decision in *Rutgers University v. Piluso*, 60 N.J. 142 (1972). In this recent opinion, *Montclair State University v. County of Passaic*, Docket No. A-3318-15T3 (August 23, 2017), the court reviewed the nature and extent of local and county review with regard to a connector road proposed by Montclair State University (MSU) from its campus to Passaic County Route 621 (Valley Road) in Clifton. MSU spent approximately six years consulting with defendants Passaic County and the City of Clifton regarding the proposed road and working through objections and concerns raised by both the county and the city.

Ultimately, MSU believed it had satisfied defendants' concerns and in 2014 submitted an application to the county for approvals relating to the proposed intersection with County Route 621. The county failed to respond, and MSU filed a complaint for declaratory judgment with the Law Division seeking a determination that the county's refusal to issue the permit was inconsistent with settled law which granted MSU qualified immunity. The trial judge ordered MSU to provide updated traffic studies, and to appear before both the city and county planning boards in connection with the road project. After MSU produced an updated traffic study, the county refused to issue a permit because it believed the roadway design did not meet the governing engineering standards, and because the city's approval was required for a traffic signal which would impact local roadways.

[Continue reading.](#)

Day Pitney Author(s) Katharine A. Coffey Christopher John Stracco Craig M. Gianetti

August 28, 2017

Day Pitney