

Bond Case Briefs

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ZONING & PLANNING - NEW JERSEY

Harz v. Borough of Spring Lake

Supreme Court of New Jersey - June 26, 2018 - A.3d - 2018 WL 3117016

Homeowner brought action under Civil Rights Act against borough and its zoning officer after challenging issuance of zoning permit allowing construction on neighboring property, and alleging she was denied an opportunity to be heard.

The Superior Court granted summary judgment for defendants, and homeowner appealed. The Superior Court, Appellate Division, affirmed in part, reversed in part, and remanded. Borough and zoning officer petitioned for certification.

The Supreme Court of New Jersey held that borough did not deprive homeowner of a cognizable substantive right to be heard by the planning board, as required to support her claim under the New Jersey Civil Rights Act.

Borough did not deprive homeowner of a cognizable substantive right to be heard by the planning board under the Municipal Land Use Law (MLUL), as required to support her claim under the New Jersey Civil Rights Act; while homeowner was an interested party with a substantive right to be heard before the planning board on her appeal from the issuance of a zoning permit to her neighbor, the borough never deprived homeowner of her right to appeal from an adverse decision of the zoning officer or her right to be heard by the board, even if the zoning officer failed to transmit the record to the zoning board in response to homeowner's first complaint, as required by statute, when, because a stop work order was entered, homeowner suffered no adverseness to any property right, and homeowner failed to exhaust the statutory process for securing her right to be heard on her subsequent complaints under the MLUL.