

# **Bond Case Briefs**

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## **CIVIL RIGHTS - NEW JERSEY**

### **Heine v. Bureau Chief Division of Fire and Safety**

**United States Court of Appeals, Third Circuit - March 13, 2019 - Fed.Appx. - 2019 WL 1167898**

Residents and property owners brought action against several municipalities and state agencies, officials or agents of those municipalities and agencies, and one bank, seeking relief pursuant to § 1983 for alleged violations of their First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights in the course of property inspections and the enforcement of municipal health and safety and housing codes.

The United States District Court for the District of New Jersey granted several defendants' motions to dismiss, and denied motion for reconsideration. Residents and property owners appealed.

The Court of Appeals held that:

- Claims against township and city were barred by res judicata;
- Claims against Department of Community Affairs and several of its Divisions were barred by res judicata;
- Residents and property owners failed to allege that any constitutional violation stemmed from a policy or custom of municipalities or state agencies, as required to hold them liable;
- Granting residents and property owners leave to amend their complaint would have been futile; and
- District court did not abuse its discretion in denying residents and property owners' motion for reconsideration.

Residents and/or property owners failed to allege that any constitutional violation stemmed from a policy or custom of the Department of Community Affairs (DCA) or its Divisions, as required to hold them liable under § 1983 for alleged violations of residents and property owners' First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights in the course of property inspections and the enforcement of municipal health and safety and housing codes; residents and property owners simply alleged generally that their residences had somehow been incorrectly designated by the DCA and other entities and that they were waiting to reoccupy a property that had been closed because it was deemed an imminent hazard.