

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - PENNSYLVANIA

East Rockhill Township v. Richard E. Pierson Materials Corp.

United States District Court, E.D. Pennsylvania - June 4, 2019 - F.Supp.3d - 2019 WL 2357589

Township brought action in state court to enjoin quarry owner and lessee-operator from installing an asphalt plant on quarry located in a residential area.

Owner and lessee-operator removed the action and asserted counterclaims against township and local officials, seeking injunctive relief to permit their operations and asserting denial of substantive due process and tortious interference with contract. Township and officials moved to dismiss.

The District Court held that:

- Defendants' actions did not shock the conscience, as required for substantive due process violation, and
- Defendants' efforts to regulate reactivation of quarry and asphalt plant were privileged and justified.

Township and local officials' efforts to regulate quarry and a planned asphalt plant by denying owner and lessee-operator a zoning permit and demanding compliance with additional requirements did not shock the conscience, as required for quarry owner and lessee-operator to state a claim for violation of their Fourteenth Amendment substantive due process rights, where such actions were not unrelated to any legitimate government goal, as township and officials were responding to citizen concerns about maintaining land use in face of proposed changes, and there were no allegations of any corruption, self-dealing, bias, or intent to interfere with constitutionally-protected activity.

Township officials' efforts to regulate reactivation of dormant quarry, including an asphalt plant, were privileged and justified, and thus, lessee-operator failed to state claim against officials for tortious interference with contract under Pennsylvania law arising from allegations that officials' denial of permit to operate plant and quarry and demand for compliance with various zoning requirements before production could begin interfered with lessee-operator's contract for a turnpike extension project, where allegations set forth by lessee-operator did not suffice to establish that officials knew their decisions were totally without any colorable legal foundation, or that they acted with corrupt motives.