

Bond Case Briefs

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PUBLIC UTILITIES . - PENNSYLVANIA

Lorenzen v. West Cornwall Township Zoning Hearing Board

Commonwealth Court of Pennsylvania - October 23, 2019 - A.3d - 2019 WL 5405314

Individual claimants and citizens' association sought judicial review of decision by the Zoning Hearing Board, which issued a permit for energy company to construct a natural gas pipeline facility.

The Court of Common Pleas affirmed the Board's decision. Claimants and association appealed.

The Commonwealth Court held that:

- Citizens' association had standing to appeal issuance of permit;
- Individual claimants lacked standing; and
- Energy company was not exempt from zoning provisions as a public utility.

Members of citizens' association demonstrated a particular harm to their properties resulting from issuance of zoning permit for construction of natural gas pipeline facility, and therefore association had standing to appeal the issuance; association presented qualified expert testimony that natural gas liquids (NGLs) such as ethane and propane had potential to explode and turn nearby trees and pieces of facility's structure into flying debris within a .5 mile radius, 2 of association's members lived within a .5 mile radius of facility.

Claimants lacked standing to challenge issuance of zoning permit that allowed construction of a natural gas pipeline facility, where claimants alleged harm resulting from the pipeline itself but the permit at issue related only to structures built in support of the pipeline.

Zoning ordinance regarding public utility exemptions did not implicitly generally exempt public utilities from township's zoning provisions, and therefore energy company, which had been issued a permit for construction of natural gas pipeline facility, was not entitled to such exemption; the ordinance merely attempted to limit or clarify the application of existing public utilities exemptions by providing that only support and maintenance structures were covered, and township could have expressly provided a general exemption if it so desired.