

Bond Case Briefs

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ZONING - NEW JERSEY

Kane Properties, LLC v. City of Hoboken

Supreme Court of New Jersey - June 26, 2013 - A.3d - 2013 WL 3197164

Property owner brought action in lieu of prerogative writs, challenging city's disapproval of variances for owner to build a multiple unit residential building in an area zoned for industrial use.

The Supreme Court of New Jersey held that:

- Appearance of impropriety standard applied to review of attorney's actions in advising city council;
- Incomplete recusal irretrievably tainted city council's actions; and
- Appropriate remedy was de novo review of zoning board's decision by trial court.

Incomplete recusal of city's conflicted corporation counsel, who had previously represented principal objector to grant of variances in same proceeding, irretrievably tainted, due to the appearance of impropriety, city council's adjudication in matter concerning property owner's appeal from zoning board's denial of request for zoning variances, where attorney sent initial letter to counsel for property owner involved in the appeal, attorney prepared a generic memorandum that his substitute counsel forwarded, along with his own, to the governing body, and attorney appeared at meeting concerning the appeal, in his capacity as corporation counsel, during which he answered questions about voting procedures and then signed the resolution on the line designating him as having approved the city council's action.