

Bond Case Briefs

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ARTICLE 78 REVIEW - NEW YORK

Connors v. Town of Colonie

Supreme Court, Appellate Division, Third Department, New York - July 3, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 05033

Town residents petitioned for Article 78 review of town resolution authorizing town to enter into agreement for operation and management of landfill.

The Supreme Court, Appellate Division, held that agreement did not convey any real property rights, and thus was not subject to permissive referendum requirement.

There was no conveyance of real property rights pursuant to town resolution authorizing town to enter into agreement for operation and management of landfill, and thus agreement was not lease and, as such, was not subject to statutory requirement to conduct permissive referendum. The agreement contained no provisions that explicitly conveyed property rights, stated that its purpose was for town to authorize and direct contractor to manage, maintain, and operate landfill in accordance with terms of agreement, preserved town's unlimited right to enter property, imposed numerous requirements and restrictions on contractor, and reasonably characterized payments that contractor was obligated to town were in consideration for certain revenues that contractor was entitled to retain.