

# **Bond Case Briefs**

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## **LAND USE - NEW JERSEY**

### **In re State Highlands Water Protection and Planning Council**

**Superior Court of New Jersey, Appellate Division - August 7, 2013 - Not Reported in A.3d - 2013 WL 4010274**

On appeal, the court was required to decide when a municipality must comply with the regulatory framework of the Highlands Water Protection and Planning Act (Act), N.J.S.A. 13:20-1 to-35, if it has chosen to join the Highlands Region planning areas. At issue was compliance with the provision that requires a municipality to obtain prior approval of the Highlands Water Protection and Planning Council (Council) before amending its municipal land use ordinance.

Appellant Greenwich Township (Greenwich) argued that Lopatcong Township (Lopatcong) was subject to this prior approval requirement when it amended its land use ordinance to permit, as a conditional use, the siting of asphalt and concrete manufacturing facilities in Lopatcong, which borders Greenwich. Thus, Greenwich argued, the Lopatcong ordinance was invalid because Lopatcong did not seek or obtain prior approval.

However, the Council, interpreting the Act, determined that the relevant area of Lopatcong was not yet subject to the Regional Master Plan (RMP) when Lopatcong adopted its challenged land use ordinance. Therefore, prior approval was not required. Greenwich appeals the Council's decision. Having reviewed Greenwich's arguments in light of the facts and applicable law, the appeals court affirmed.