

Bond Case Briefs

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Encore Lake Grove Homeowners Ass'n, Inc. v. Cashin Associates, P.C.

Supreme Court, Appellate Division, Second Department, New York - November 27, 2013 - N.Y.S.2d - 111 A.D.3d 881 - 2013 N.Y. Slip Op. 07932

Village issued certificates of occupancy for condominium developments based upon engineer's inspections. After the condominium homes were purchased, the homeowners discovered certain construction defects, including the absence of fire walls in two buildings.

Two condominium communities and a joint homeowners association brought action against village engineer for breach of contract and professional malpractice in connection with engineer's inspection of condominium units.

The Supreme Court, Appellate Division, held that:

- Plaintiffs could be third party beneficiaries of contract between village and engineer authorizing the defendant to inspect the condominiums, and
- Plaintiffs did not have claim against engineer for professional malpractice based on its allegedly negligent inspection of the condominiums. Plaintiffs were seeking enforcement of the engineer's promise to properly inspect the construction of the subject homes, and thus only had claim sounding in contract.