

Bond Case Briefs

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ELECTIONS - NEW JERSEY

Finkel v. Township Committee of Township of Hopewell

Superior Court of New Jersey, Appellate Division - December 30, 2013 - A.3d - 2013 WL 6839489

Residents who supported municipality's proposed acquisition of roadway from county brought action for declaratory and injunctive relief, seeking to challenge referendum that submitted the issue to voters, claiming municipality's failure to submit proposed question on non-binding local referendum to county clerk within 81 days before election rendered the referendum untimely and thus invalid.

The Superior Court denied the requested relief. In response to residents' emergent application just days prior to election, a two-judge panel of the Superior Court, Appellate Division, issued order denying residents' request for injunctive relief. After the election in which voters rejected municipality's acquisition of roadway, a three-judge panel denied residents' subsequent request for injunctive relief. Residents appealed.

The Superior Court, Appellate Division held that:

- Appellate Division would review otherwise moot issue as one capable of repetition yet evading review, and
- Submission of question on non-binding referendum was subject to strict enforcement of two deadlines set forth in two election statutes.

Proposed question on non-binding local referendum could not be placed on ballot when municipality had failed to submit proposal to county clerk within 81 days before election as required by election statute, even though municipality had submitted proposal within 65-day deadline separately set forth in another conflicting election statute, and municipality's failure to comply with both statutes rendered the referendum untimely and thus invalid. Although the two election statutes were in conflict, providing two separate submission deadlines, the longer 81-day deadline served its own purpose of protecting the citizenry and promoted the opportunity for voters to respond effectively to a proposed referendum.