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MUNICIPAL ORDINANCE - NEW JERSEY

Bayshore Regional Sewerage Authority v. Borough of Union Beach

Superior Court of New Jersey, Appellate Division - July 3, 2014 - Not Reported in A.3d - 2014 WL 2971460

Borough of Union Beach appealed a declaratory judgment action, restraining enforcement of Union Beach Ordinance 2009-150 (the Ordinance), which was designed to regulate the construction of wind energy projects.

Bayshore Regional Sewerage Authority (BRSA), which intended to construct a wind turbine at its Borough of Union Beach water treatment plant, argued that the Ordinance was preempted by N.J.S.A. 40:55D-66.12(c) of the Municipal Land Use Law, N.J.S.A. 40:55D-1 to -163.

The appeals court sided with BRSA, affirming the injunction.

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