

Bond Case Briefs

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MUNICIPAL ORDINANCE - ALASKA

Lake & Peninsula Borough Assembly v. Oberlatz

Supreme Court of Alaska - July 11, 2014 - P.3d - 2014 WL 3377607

Registered voters who maintained a home in Borough and a home outside that Borough sought judicial review of decision of canvassing committee to reject their ballots and asserted direct claims against Borough and a number of Borough officials in their official and individual capacities. The Superior Court entered judgment in favor of voters as to claims against Borough, finding that they were eligible to vote in future Borough elections absent substantial changes in circumstances, but limited their award of attorney fees as prevailing parties against Borough, and awarded individual officials fees as prevailing parties. Parties appealed.

The Supreme Court of Alaska held that:

- Each of the voters established their residency such that they were eligible to vote in Borough election;
- Ordinance governing voter residency did not operate to preclude a finding of residency;
- Order predetermining voters' eligibility to vote in future Borough elections and effectively enjoining Borough from exercising its responsibility to comply with state and Borough election laws in the future was inappropriate and unnecessary;
- Voters' claims were constitutional in nature such that they were entitled to attorney fee award; and
- Remand was necessary for trial court to limit prevailing party fees to individual officials based on fees devoted solely to defending against non-constitutional claims.