

Bond Case Briefs

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PROPERTY - NEW HAMPSHIRE

Lynch v. Town of Pelham

Supreme Court of New Hampshire - October 24, 2014 - A.3d - 2014 WL 5395008

Former owner of property purchased by town brought action against town for declaratory and injunctive relief, asserting that town violated covenants in deed conveying real property to town. The Superior Court granted town's motion to dismiss. Former owner appealed.

The Supreme Court of New Hampshire held that:

- Covenants relating to aesthetics of buildings that town would construct on property were in gross, not appurtenant;
- Section of Restatement (Third) of Property: Servitudes providing that an entity that holds the benefit of a covenant in gross can enforce it if it can establish a legitimate interest in enforcement would be adopted; and
- Former owner had legitimate interest in enforcing deed's in gross covenants and thus had standing to bring action.