

Bond Case Briefs

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NJ Supreme Court Seeks Input for Prism Bonds Appeal.

WEST ORANGE — The “outstanding briefs” that caused the New Jersey Supreme Court to indefinitely postpone oral arguments last month in the lawsuit filed by five residents against West Orange have been discovered to be amicus curiae briefs, which the court requested from acting New Jersey Attorney General John Hoffman and invited from the New Jersey State Bar Association, the New Jersey League of Municipalities and the National Association of Bond Lawyers.

An amicus curiae, or a “friend of the court,” is someone who advises the court on legal matters pertaining to a case without advocating for either the plaintiff or the defendant.

State Supreme Court Clerk Mark Neary sent a letter to Hoffman on Oct. 31 requesting that he submit a brief on the case and speak as amicus curiae on behalf of the Local Finance Board in the Department of Community Services.

According to the letter, a copy of which was provided to the West Orange Chronicle, Hoffman was given until Dec. 22 to submit a brief, with all parties involved allowed to submit briefs responding to it by Jan. 20.

Neary likewise sent a letter to the NJ State Bar Association, the League of Municipalities and the National Association of Bond Lawyers on the same day inviting them to provide briefs and appear before the court as amicus curiae. According to the letter, which was provided to the Chronicle, they were also asked to submit their briefs by Dec. 22, with all parties involved able to submit response briefs through Jan. 20.

Mayor Robert Parisi declined to comment on the matter at this time. Windale Simpson, one of the plaintiffs and spokesman for the group, was not able to be reached before press time Dec. 22.

Though the fact that the Supreme Court is willing to examine the case in depth should be encouraging to both sides hoping to be proven right in court, the delay is undoubtedly frustrating. The Supreme Court had originally agreed to take the case Jan. 24. After months with no word on a hearing date, in October the clerk’s office told the Chronicle a date had been tentatively set for Nov. 10. That date was later scrapped due to what the clerk’s office told the Chronicle were “outstanding briefs,” now known to be the amicus curiae briefs.

Once it is eventually heard, the case will decide whether the township’s ordinance granting \$6.3 million in municipal bonds to Bloomfield real estate operator Prism Capital Partners is valid. It is being questioned because the town did not apply for approval to the Local Finance Board.

The matter was first brought before the municipal court by residents Rosary Morelli, Mark Meyerowitz, Althia Tweiten, Michael Scharfstein and Simpson on May 14, 2012, after they had twice failed to get a petition certified for a referendum on the project’s bond issuance. They objected both to the bond and the township’s granting a 30-year property tax abatement to Prism, which had been contracted by West Orange to construct the Edison Village mixed-use complex in the downtown redevelopment area.

The five plaintiffs lost that case, and their appeal as well, before successfully appealing to the state Supreme Court.

The bonds were issued to Prism as part of its 2006 redevelopment agreement with the township to build Edison Village, the 21-acre mixed-use project that will offer apartments, retail space and townhouses in the downtown district when completed.

Of course, the question of when the project will get off the ground has been a subject of controversy during the past six years without construction even beginning. The township maintains that the current lawsuit is causing the delays since the bonds are tied up in the litigation; however, critics argue that Prism's financial situation might be the real issue. Currently the real estate operator is approximately \$1 million behind in property taxes owed to the township of West Orange. Jack Sayers, the West Orange business administrator, previously told the Chronicle that West Orange is utilizing "every legal remedy available" to get Prism to pay what it owes.

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