

# **Bond Case Briefs**

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## **ZONING - CONNECTICUT**

### **Town of Rocky Hill v. SecureCare Realty, LLC**

**Supreme Court of Connecticut - January 6, 2015 - A.3d - 315 Conn. 265**

Town sought declaratory and injunctive relief that group of private entities, who together had contracted with state to provide nursing home services to state prisoners and others in state custody, were prohibited from opening or operating the proposed facility on the property because such use would be noncompliant with town zoning regulations. The Superior Court granted group's motion to dismiss for lack of subject matter jurisdiction. Town appealed.

The Supreme Court of Connecticut held that:

- Group was not an arm of the state entitled to assert sovereign immunity defense, and
- Town zoning regulation was not preempted by statute allowing the state to contract to establish nursing home services.

Group of private entities that together had contracted with state to provide nursing home services to state prisoners and others in state custody was not an "arm of the state" entitled to assert sovereign immunity as defense in declaratory and injunctive relief action that town had brought against the group regarding zoning violation. Though group was performing an important government function and the financial impact of an adverse judgment would fall partly and significantly on the state, group was not entirely financially dependent on the state, group's budget was not closely monitored by the state, the state did not have comprehensive control over the group, its officers and directors were not state functionaries, and nursing home staff were not state employees, state did not "create" the group of privately held entities, rather it contracted out for their services, and state itself intended compliance with local regulation.

Town zoning regulation was not preempted by statute allowing state to establish or contract to establish nursing home services to state prisoners and others in state custody, as legislature did not intend statute to limit the application of local zoning regulations to nursing home projects established under the authority of the statute, and regulation did not irreconcilably conflict with the statute or frustrate state's statutory objective of establishing nursing homes for those in state custody.