

Bond Case Briefs

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Att. Gen's Brief Supports Town in Prism-Bonds Case.

WEST ORANGE — A brief submitted by the office of acting Attorney General John Hoffman argued that local redevelopment and housing law does not mandate that municipalities must submit ordinances issuing bonds to the Local Finance Board for review. His opinion was part of an amicus curiae brief submitted to the New Jersey Supreme Court on Dec. 22.

The brief was requested by the court which is currently reviewing an appeal of a case brought by five West Orange residents to block the issuance of the bonds.

The Attorney General's Office, which was weighing in on behalf of the LFB in the case meant to decide whether the township followed proper procedure in issuing \$6.3 million in municipal bonds to real estate operator Prism Capital Partners, wrote in its brief that LFB approval is only necessary under circumstances specifically defined in the law.

According to the document, which was provided to the West Orange Chronicle by the Supreme Court Clerk's office, an example of such a circumstance is when a bond is granted for the purpose of providing funds to let a housing authority extend credit or loans to redevelopers.

However, as the brief pointed out, the law never makes a blanket statement that all cases need to be reviewed by the LFB. "The fact that a municipality issues bonds that include payments in lieu of taxes and/or special assessments is not, in itself, sufficient to require LFB review," the brief said.

Furthermore, the Attorney General's Office argued that the language of the law passage in question never stipulates that bonds can only be issued after review by the LFB. The section is worded in a way that does leave room for debate: It starts with the statement that bonds may be issued and sold in a number of manners, which it then lists, and ends with the phrase "upon application to and prior approval of the Local Finance Board in the Department of Community Affairs."

While it is the plaintiffs' case that the concluding phrase encompasses the entire section — meaning that every bond would be subject to LFB approval — the Attorney general's Office cited legal precedent to argue that it only referred to the phrase immediately preceding it.

In effect, the brief supports the township's case that it did not need to submit its bond issuance to the LFB. But the acting attorney general is not the only one participating in the case as a friend of the court.

Of the parties the Supreme Court Clerk Mark Neary invited amicus briefs from, Hoffman's office was the only one to submit by the Dec. 22 requested deadline. According to Mayor Robert Parisi, the New Jersey State League of Municipalities and the Institute of Local Government Attorneys will be filing a joint brief on Jan. 12. The New Jersey State Bar Association and the National Association of Bond Lawyers declined to file anything, he said.

Still, Parisi is optimistic about the township's chances of winning the case.

"The court is being diligent in its review of this matter, but the township remains confident that the

court will ultimately rule in our favor,” Parisi told the Chronicle in a Jan. 5 email. “We are anxious to have this matter resolved.”

The five residents who filed the lawsuit also have not given up hope. Windale Simpson, one of the plaintiffs and the spokesman for the group, said they would prefer to comment after all of the amicus briefs have been submitted. But he said he did not expect to lose the case.

According to the Supreme Court Clerk’s office, a new date for oral arguments has not yet been set. The original Nov. 10 date was postponed after the court requested the amicus briefs.

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