

Bond Case Briefs

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Pennsgrove Associates, LP v. Carneys Point Township Planning Bd.

Superior Court of New Jersey, Appellate Division - July 2, 2015 - Not Reported in A.3d - 2014 WL 9988553

Plaintiffs challenged the grant of site plan approval by the Carneys Point Township Planning Board (Board) to Tri County Real Estate and Maintenance Company, Inc. Tri County's plan proposed construction of sixty affordable housing units in Carneys Point. Plaintiffs claimed that the agreement by Tri County to pay certain legal fees of the Township of Carneys Point and the Township's agreement to accept the payment constituted an unlawful quid pro quo arrangement, and, therefore, the action of the Board was arbitrary, capricious or unreasonable.

The appeals court concluded that the payment of the legal fees was not a quid pro quo for the Board's approval for several reasons. First, the Legal Fees Provision in the Redeveloper's Agreement was permitted by N.J.S.A. 40A:12A-8 of the LRHL. Second, the approval by the Board was not in any way conditioned on the payment of the legal fees. Third, the underlying litigation had been dismissed and payment was part of the settlement of appeal between the Township and Tri County. Most importantly, as opined to the Board by the Township Solicitor, Tri County had a right to the approval since "the project does not require any variances or design waivers."