

# **Bond Case Briefs**

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## **TAX - NEW JERSEY**

### **Gamma-Upsilon Alumni Ass'n of Kappa Sigma, Inc. v. City of New Brunswick**

**Tax Court of New Jersey - April 26, 2018 - 30 N.J.Tax 426**

Taxpayer, a non-profit fraternal organization that was exempt from federal income tax, sought review of city's assessment of a fraternity house that it owned.

City moved to dismiss taxpayer's complaint on grounds that taxpayer failed to respond to assessor's request for income and expense information of the property.

The Tax Court held that:

- Fraternity house was "income producing" under state statute barring a property owner from appealing an assessment after failing or refusing to respond within 45 days of request for income information if property was income-producing;
- City was not required to plead as an affirmative defense in its answer that taxpayer failed to respond to request for income information;
- City's motion to dismiss did not equate to a summary-judgment motion;
- Taxpayer was not entitled to discovery on a revaluation firm's involvement in sending request for income information; and
- Taxpayer was not entitled to discovery to explore whether the assessor would have used the information provided had taxpayer responded to request for income information.