

Bond Case Briefs

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Cherokee LCP Land, LLC v. City of Linden Planning Board

Supreme Court of New Jersey - August 2, 2018 - A.3d - 2018 WL 3650226

Objectors brought action challenging approval of developer's land use application. The Superior Court, Chancery Division, dismissed the complaint with prejudice. Objectors appealed.

The Superior Court, Appellate Division, affirmed, and objectors petitioned for certification.

The Supreme Court of New Jersey held that:

- Objectors may qualify as interested parties with standing to challenge planning board's approval of land use application of neighboring property owner, and
- The Municipal Land Use Law's (MLUL) statutory notice requirement had no bearing on whether objectors, as tax lienholders, would qualify as "interested parties" to challenge planning board's action.

Tax lienholders, who had the right acquire title to the property, and to use the property in a limited manner in order to make repairs, or abate, remove or correct any condition on the property harmful to the public health, safety and welfare, may qualify as interested parties with standing to challenge planning board's approval of land use application of neighboring property owner; lienholders alleged that the proposed land use project would eliminate certain points of access to the neighboring property, interfere with an existing easement, and substantially modify storm water management on the property, which would affect their limited possessory interest in the property.

The Municipal Land Use Law's (MLUL) statutory notice requirement had no bearing on whether tax lienholders would qualify as "interested parties" to challenge planning board's action in approving neighboring property owner's land use application; if the Legislature had intended for only parties required to be notified to have standing, it would have said so and restricted the standing requirements accordingly, but instead, the Legislature allowed for any "interested party" to appeal a board action, which was discrete from a noticed party under the MLUL.