

Bond Case Briefs

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West 58th Street Coalition, Inc. v. City of New York

Court of Appeals of New York - May 27, 2021 - N.E.3d - 2021 WL 2144169 - 2021 N.Y. Slip Op. 03346

Objectors commenced article 78 proceeding, challenging determination by the Department of Buildings (DOB) that classified nine-story building proposed for employment shelter for homeless men as a “class A” multiple dwelling with an “R-2” occupancy group, grandfathered from compliance with current building code.

The Supreme Court, New York County, denied petition and dismissed proceeding. Objectors appealed. The Supreme Court, Appellate Division, affirmed as modified by remitting to Supreme Court with the direction to conduct a hearing on whether the building’s use was consistent with general safety and welfare standards. Objectors appealed.

The Court of Appeals held that:

- DOB’s classification was rational, but
- In reviewing DOB decision in article 78 proceeding, Court of Appeals was precluded from remitting action for plenary judicial proceedings.

Department of Buildings’ (DOB) classification of nine-story building proposed for employment shelter for homeless men as a “class A” multiple dwelling with an “R-2” occupancy group, which includes buildings occupied for permanent residence purposes, and grandfathering building from compliance with current building code, was rational; the building’s “R-2” classification was based on evidence that residents would occupy their dwelling units, on average, for at least 30 days given the nature of the services and programs that would be offered there.

In reviewing decision by Department of Buildings (DOB) that classified nine-story building proposed for employment shelter for homeless men as a “class A” multiple dwelling with an “R-2” occupancy group, grandfathered from compliance with current building code, Court of Appeals was precluded from remitting action to Supreme Court for plenary judicial proceedings on whether building’s use as a homeless shelter was consistent with general safety and welfare standards after Court of Appeals had found that classification determination had a rational basis in article 78 proceeding pursuant to which the scope of review did not extend past question of whether challenged determinations were irrational, which was a question of law.

Upon concluding that an authorized agency has reviewed a matter applying the proper legal standard and that its determination has a rational basis, a court cannot second guess that determination by granting a hearing to find additional facts or consider evidence not before the agency when it made its determination.

