

# Zoning Bulletin

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## Telecommunications Act—City denies cell tower request and provides published meeting minutes with reasons for denial 26 days later

Telecommunication company contends city failed to meet Telecommunications Act requirement of providing written reasons for denial

Citation: *T-Mobile South, LLC v. City of Roswell, Ga.*, 135 S. Ct. 808 (2015)  
The Supreme Court of the United States has ultimate appellate jurisdiction

### Contributors

Corey E. Burnham-Howard

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610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)

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*over all federal courts and over state court cases involving issues of federal law.*

SUPREME COURT OF THE UNITED STATES (01/14/15)—This case addressed the issues of whether, and in what form, localities must provide reasons when they deny telecommunication companies' applications to construct cell phone towers. More specifically, it addressed: (1) whether a locality must provide reasons when it denies a siting application; and (2) whether a locality's reasons for denying a siting application must appear in the same writing that conveys the locality's denial.

**The Background/Facts:** In February 2010, T-Mobile South, LLC ("T-Mobile") applied to build a new, 108-foot-tall cell phone tower on 2.8 acres of vacant residential property in the city of Roswell, Georgia (the "City"). Ultimately, the City's Planning and Zoning Division found that T-Mobile's application met all of the requirements set out in the City's ordinances. After a public hearing, the City Council ultimately denied T-Mobile's application. Two days later, the City's Planning and Zoning Division informed T-Mobile of the denial via a letter. The letter did not provide reasons for the denial, but stated that minutes from the meeting (at which City Council members voiced their reasons) would be made available. The detailed minutes were published 26 days later.

Three days after the detailed minutes were published—and now 29 days after the City Council denied T-Mobile's application and one day before T-Mobile's appeal period expired—T-Mobile filed suit in Federal District Court. T-Mobile alleged that the City Council's denial was not supported by substantial evidence in the record, and would effectively prohibit provision of wireless service in violation of the federal Telecommunications Act of 1996 (the "Act").

The Act provides, in relevant part, that "[a]ny decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record." (110 Stat. 151, 47 U.S.C.A. § 332(c)(7)(B)(iii).)

Both the City and T-Mobile moved for summary judgment; they asked the district court to find that there were no material issues of fact in dispute and to decide the matter in their favor on the law alone. The district court agreed with T-Mobile and issued summary judgment in its favor. It concluded that the City, by failing to issue a written decision stating its reasons for denying the application, had violated the Act.

The City appealed. The Eleventh Circuit Court of Appeals disagreed with the district court. It found that the City had met the Act's requirements because T-Mobile had received a denial letter and also possessed a transcript of the public hearing at which the City Council voted to deny the application. (T-Mobile had arranged privately to have the public hearing transcribed and thus possessed that transcript since the date of the public hearing.)

T-Mobile again appealed. It argued that the City was required by the Act to provide reasons for its denial in the writing conveying the denial itself. The City countered that "a reason-giving obligation would deprive it of local zoning authority."

**DECISION:** Judgment of Eleventh Circuit reversed and matter remanded.

The United States Supreme Court held that the Act (§ 332(c)(7)(B)(iii)) does require localities to provide reasons why they deny applications to build cell phone towers. The court stressed that the reasons that must be given “need not be elaborate or even sophisticated, but rather . . . simply clear enough to enable judicial review.” The court based this holding on the plain language of the provisions of the Act, noting that it “would be considerably difficult for a reviewing court to determine whether a locality’s denial was ‘supported by substantial evidence contained in a written record,’ § 332(c)(7)(B)(iii), or whether a locality had ‘unreasonably discriminate[d] among providers of functionally equivalent services,’ § 332(c)(7)(B)(i)(I), or regulated siting ‘on the basis of the environmental effects of radio frequency emissions,’ § 332(c)(7)(B)(iv), if localities were not obligated to state their reasons for denial.” Moreover, the court found the Act’s phrase “substantial evidence” was used as a “term of art” that describes how “an administrative record is to be judged by a reviewing court.”

Importantly, the court also held that localities are not required to provide their reasons for denying siting applications in the denial notice itself. Rather, the court concluded that localities “may state those reasons with sufficient clarity in some other written record issued essentially contemporaneously with the denial.” In so holding, the court again looked to the text of the Act, finding nothing imposed any requirement that the reasons be given in any particular form. Thus, here, the court concluded that the City’s detailed meeting minutes fulfilled the written reasons requirement.

Although the court found that the Act does not require a locality to provide its written reasons in any particular format, and although the court found that a locality may rely on detailed meeting minutes as it did here, the court also held that a “locality must provide or make available its written reasons at essentially the same time as it communicates its denial.” The court said that a locality cannot “stymie or burden the judicial review contemplated by the [Act] by delaying the reasons for a substantial time after it conveys its written denial” to an entity that only has 30 days within which to seek judicial review under the Act.

Here, although the court found that the City had provided its reasons in writing and did so in the acceptable form of detailed minutes of the City Council meeting, the court also concluded that the City failed to provide its written reasons for denial “essentially contemporaneously” with its written denial. The court found that the City’s issuance of the detailed minutes 26 days after the date of the written denial letter and just 4 days before T-Mobile’s time to seek judicial review would have expired, did not meet the Act’s requirements.

See also: *U. S. v. Carlo Bianchi & Co.*, 373 U.S. 709, 83 S. Ct. 1409, 10 L. Ed. 2d 652 (1963).

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**Case Note:**

*In its decision, the court noted that a cell phone tower application denial itself need only be issued “within a reasonable period of time” (§ 332(c)(7)(B)(ii)), which has been interpreted to allow localities 90 days to act on applications to place new antennas on existing towers and 150 days to act on other siting applications.*

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**Case Note:**

The court's holding that locality's reasons for denying a siting application need not appear in the same writing that conveys the locality's denial, abrogated (i.e., repealed/abolished) the following cases: *Southwestern Bell Mobile Systems, Inc. v. Todd*, 244 F.3d 51, 31 *Env'tl. L. Rep.* 20578 (1st Cir. 2001); *New Par v. City of Saginaw*, 301 F.3d 390, 2002 *FED App.* 0276P (6th Cir. 2002); and *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715 (9th Cir. 2005).

## Validity of Zoning Regulations— Township's zoning ordinance prohibits all billboards

Billboard company challenges zoning prohibition as  
unconstitutionally exclusionary

Citation: *In re Bartkowski Inv. Group, Inc.*, 2014 WL 6865462 (Pa. Commw. Ct. 2014)

PENNSYLVANIA (12/08/14)—This case addressed the issues of: (1) whether a township's zoning ordinance was unconstitutionally exclusionary as to billboards; and (2) to what judicial relief is a challenger/developer entitled when a zoning ordinance is found to be unconstitutionally exclusionary.

**The Background/Facts:** Bartkowski Investment Group, Inc. ("BIG") sought to construct several billboards in the Haverford Township (the "Township"). It applied to the Township's Zoning Hearing Board ("ZHB") for approval to construct the billboards. In those applications, BIG raised substantive validity challenges to the Township's zoning ordinance ("ZO"). It alleged that the ZO's municipality-wide exclusion of billboards was unconstitutional.

The ZHB ultimately issued a decision denying BIG's substantive validity challenges. Although the ZHB found that the ZO prohibited "billboards," the ZHB held that it did not prohibit all nonaccessory outdoor advertising signs and therefore was not unconstitutional. In any case, the ZHB alternatively concluded that even if the ZO improperly excluded billboards, the Township had demonstrated that health and safety concerns supported the prohibition of BIG's billboards.

BIG appealed. The trial court affirmed the ZHB's decision "to the extent that the billboards proposed by [BIG] were not suitable for the proposed sites."

BIG again appealed. On appeal, BIG again argued that the ZO was unconstitutionally exclusionary to billboards. It also argued that since the ZO was unconstitutional, it was entitled to judicial relief in the form of site-specific relief granting approval of its billboards.

**DECISION: Judgment of court of common pleas affirmed in part and remanded.**

The Commonwealth Court of Pennsylvania held that the ZO was unconstitu-

tional for totally excluding billboards from the entire municipality given that the exclusion was not substantially related to the public health, safety, morality, or general welfare.

In so holding, the court explained that zoning ordinances are presumed constitutional unless the challenger (i.e., here, BIG) can demonstrate that the ordinance totally or effectively excludes an otherwise legitimate use by showing that the ordinance is either: (1) *de jure* exclusionary in that, on its face, the ordinance totally bans a legitimate use; or (2) *de facto* exclusionary in that the ordinance permits the use on its face, but, when applied, actually prohibits the use throughout the municipality.

The court further explained that if a challenger meets that burden, the burden then shifts to the municipality to show, through evidence, that the total exclusion “bears a substantial relationship to the public health, safety, morality, or welfare.” Such a showing by the municipality “will rescue an otherwise exclusionary ordinance from a constitutional challenge,” said the court.

Here, BIG had argued that the ZO was *de jure* exclusionary because it expressly prohibited billboards in the Township. The court found that all parties agreed that the ZO did prohibit billboards in the Township. The court found that the ZO classified a “commercial billboard” as a form of off-premises advertising sign. Section 182-701.B(6) of the ZO provided that “[a]ll signs, other than exempt signs, shall be erected on the same lot as the use to which it pertains.” Section 182-701.B(9) provided that signs “are intended for purposes of identification and information and not for advertising of a product or service.” Roughly translated, the court found that those provisions meant that the ZO generally prohibited all off-premises advertising signs, including billboards, subject to certain exemptions, none of which allowed for a billboard or advertising sign.

Having found the ZO totally excluded billboards as a permitted use, the court found the burden shifted to the Township to show, through evidence, that the total exclusion of billboards from the Township “[bore] a substantial relationship to the public health, safety, morality, or welfare.” The court said that the Township had to “present evidence to support the ban of the use throughout the municipality, and not simply rely upon evidence demonstrating only that health, safety, and welfare concerns support the prohibition on the particular sites upon which [BIG] propose[d] to develop or construct the prohibited use.”

The court concluded that the Township failed to meet that burden. The court found that each of the ZHB’s material factual findings relating to the Township’s burden to justify the municipality-wide exclusion of billboards, and the evidence on which the ZHB relied, were directed to BIG’s proposed billboards, as configured and located at specific locations. “Neither the findings of the ZHB nor the record provide[d] a sufficient basis to justify [the Township’s] municipality-wide exclusion of billboards,” concluded the court.

Accordingly, the court held that the ZO was unconstitutional for totally excluding billboards from the entire municipality and that the Township failed to prove a substantial relationship between the exclusion and the public health, safety, morality, or general welfare.

As to the appropriate relief to thus grant BIG in light of the finding that the ZO was unconstitutional, the court looked to § 1006-A(c) of the state’s

Municipalities Planning Code (“MPC”). That statute provides that if an ordinance unlawfully prevents a use, the court may order the described use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body having jurisdiction for further proceedings. The court found that the record before the ZHB was “more than adequate to reject [BIG’s request for] judicial relief under Section 1006-A(c) in the form of approval of all elements of BIG’s proposed billboards” in that it showed ample evidence that allowing the proposed billboards at the proposed sites could be detrimental to the health and safety of the residents and passersby. However, the court remanded the matter to the trial court to consider whether alternative relief could and should be made available to BIG with respect to BIG’s proposed billboard sites.

See also: *Interstate Outdoor Advertising, L.P. v. Zoning Hearing Bd. of Warrington Tp.*, 39 A.3d 1019 (Pa. Commw. Ct. 2012), appeal denied, 621 Pa. 680, 75 A.3d 1283 (2013).

See also: *Township of Exeter v. Zoning Hearing Bd. of Exeter Tp.*, 599 Pa. 568, 962 A.2d 653 (2009).

See also: *Appeal of Miller and Son Paving, Inc.*, 161 Pa. Commw. 138, 636 A.2d 274 (1993).

## Time for Proceedings—Neighboring property owners appeal site plan approval

Town argues appeal is untimely, and parties dispute whether appeal period ran from date of public hearing vote or date of written decision issued

Citation: *Beckford v. Town of Clifton*, 2014 ME 156, 2014 WL 7448471 (Me. 2014)

MAINE (12/31/14)—This case addressed the issue of whether property owners timely appealed a planning board decision. More specifically, it addressed the issue of whether a vote by a zoning board of appeals only triggers the statutory appeal period once a written decision is issued.

**The Background/Facts:** In late 2010, Pisgah Mountain, LLC applied to the Town of Clifton Planning Board (the “Board”) for site plan approval to build and operate a five-turbine commercial wind energy project. The Board eventually voted to approve Pisgah’s application. Peter and Julie Beckford (the “Beckfords”) then appealed the Board’s decision to the Town’s Zoning Board of Appeals (“ZBA”).

On January 25, 2012, the ZBA held a hearing on the appeal at which it voted to adopt the Board’s findings of fact and to reject each of the Beckfords’ specific challenges that had been raised on appeal. At that hearing, the ZBA voted to deny the appeal “in its entirety.” The ZBA then decided to meet again on January 30, “for the Final Decision.”

On January 30, 2012, the ZBA approved the minutes of the January 25 meeting, which memorialized the votes from the January 25 meeting. The ZBA also voted to accept a written Notice of Final Decision on the Beckfords' appeal.

On March 5, 2012, the Beckfords again appealed, filing a complaint in superior court. Pisgah and the Town moved to dismiss the Beckfords' complaint. They argued that the Beckfords' appeal to court was untimely in that it was filed outside of the 45-day statutory appeal period (30-A M.R.S. § 2691(3)(G)). They contended that the statutory appeal period started on January 25 when the ZBA voted to deny the appeal at the public hearing.

The Superior Court disagreed and denied the motion to dismiss. The court held that the statutory appeal period started on January 30 when the ZBA issued its written findings and decision, not on January 25 when it voted to deny the appeal. The court also ultimately vacated the Board's decision to approve the permit on the ground that the Town misapplied the requirements of the Town Land Use Ordinance.

The Town and Pisgah appealed, and the Beckfords cross-appealed.

**DECISION: Judgment of superior court vacated, and matter remanded.**

The Supreme Judicial Court of Maine held that the statutory appeal period began on January 25 when the ZBA voted to deny on the appeal, not on January 30 when the ZBA issued its written findings and decision on the denial. Accordingly, the court concluded that the Superior Court lacked jurisdiction to hear the Beckfords' appeal from the ZBA's decision.

In so holding, the court analyzed the plain language of the governing statute. The statute, 30-A M.R.S. § 2691, which governs municipal boards of appeals, provides: "Any party may take an appeal within 45 days of the date of the vote on the original decision . . . ."

Based on that language, the court noted that the timeliness of the Beckfords' appeal hinged on whether the ZBA's "vote on the original decision" occurred on January 25 or January 30.

The court found that § 2691 was clear and unambiguous, providing that the time period for filing an appeal runs from "the vote." The court found that § 2691 "[did] not include any language that directly or indirectly suggest[ed] that to be sufficient to invoke the appeal period, a vote must be accompanied by issuance of a written decision." The court stated that the issuance of written findings is an event that is distinct from the vote itself—even when a municipal ordinance requires a zoning board of appeals to issue a written decision. The court held that the statutory appeal period runs from the date of a board of appeal's final public vote, regardless of whether or when a written decision is issued.

Here, the court found that it was the January 25 vote that triggered the appeal period, not the January 30 vote. The court found the January 25 vote was a public vote on each of the issues on appeal, publicly making a decision on the appeal and announced at the public meeting. In comparison, the January 30 vote was only a vote by the ZBA to approve the text of a document memorializing the decision that had already been made, found the court.

Consequently, the court concluded that the Beckfords' appeal to the superior court, which was filed 50 days after the January 25 vote, was untimely. Accordingly, the court held that the superior court did not have jurisdiction over the

appeal. The court remanded the matter to the superior court to dismiss the Beckfords' appeal.

See also: *Carroll v. Town of Rockport*, 2003 ME 135, 837 A.2d 148 (Me. 2003).

See also: *Vachon v. Town of Kennebunk*, 499 A.2d 140, 142 (Me. 1985).

See also: *Woodward v. Town of Newfield*, 634 A.2d 1315 (Me. 1993).

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*Case Note:*

*In its decision, the court noted that had the Beckfords so moved, the superior court would have had the authority to allow an extension of the deadline for "good cause shown." (30-A M.R.S. § 2691(3)(G).) However, even though Pisgah moved to dismiss the appeal as untimely, the Beckfords failed to make such a motion.*

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## **Sovereign Immunity/Preemption— Town alleges zoning violations against property owner**

Property owner, which had contracted with state to provide nursing homes services, claims sovereign immunity as "arm of state"

Citation: *Town of Rocky Hill v. SecureCare Realty, LLC*, 315 Conn. 265, 2015 WL 46242 (2015)

CONNECTICUT (01/6/15)—This case addressed the issue of whether a group of private entities, who together have contracted with the state pursuant to Connecticut General Statutes § 17b-372a to provide nursing home services to state prisoners and others in state custody, comprise an "arm of the state" that may assert the defense of sovereign immunity in an action brought against them by a municipality claiming noncompliance with its zoning regulations. It also addressed the issue of whether § 17b-372a preempts the application of town zoning regulations to the owners and operators of private nursing home properties which the state contracts under § 17b-372a.

**The Background/Facts:** SecureCare Realty, LLC ("SecureCare") owned real property in the town of Rocky Hill (the "Town"). A nursing home facility had previously been operated on SecureCare's property. The property was located in a district that was zoned for residential use. SecureCare had neither sought nor received from the Town any special use permits in connection with the use of its property.

On SecureCare's property, iCare Management, LLC ("iCare"), a management and consulting firm, was overseeing a development of a § 17b-372a nursing home. Connecticut General Statutes § 17b-372a permits certain state officials to "establish or contract for the establishment of" nursing home facilities for state prisoners and individuals receiving services from the Connecticut

Department of Mental Health and Addiction Services. iCare was negotiating with the State of Connecticut (the "State") to reopen the nursing home facility on the property and to place at that facility individuals who were in State custody.

After hearing of the plans for the § 17b-372a facility, the Town filed a lawsuit. It asked the court to declare that SecureCare and iCare (hereinafter, collectively, the "Care Services") were prohibited from opening and operating the proposed facility on the property because such use would be noncompliant with Town zoning regulations and did not constitute a prior nonconforming use, and no special permit had been sought or issued.

Care Services asked the court to dismiss the Town's action. Care Services claimed that the action was barred by sovereign immunity, and, therefore, should be dismissed for lack of subject matter jurisdiction. According to Care Services, they were an "arm of the state" and therefore immune from suit.

The trial court agreed with Care Services. It found that Care Services met five of the eight factors used by courts in determining whether an entity should be immune from suit as an "arm of the state." Additionally, the court concluded that even if Care Services were not shielded by sovereign immunity as an arm of the state, the Town's zoning authority over the project was expressly preempted by § 17b-372a.

The Town appealed. It argued that: (1) Care Services was not an "arm of the state," absolutely shielded from suit by sovereign immunity, because none of the eight factors used to determine whether an entity is an arm of the state was conclusively proven; and (2) § 17b-372a did not preempt local zoning regulations.

**DECISION: Judgment of superior court reversed, and matter remanded.**

The Supreme Court of Connecticut agreed with the Town. It held that Care Services was not an arm of the state entitled to assert a sovereign immunity defense in the zoning action brought against Care Services by the Town. The court also held that § 17b-372a does not preempt the application of town zoning regulations or irreconcilably conflict with municipal zoning regulations.

In so holding, the court analyzed the "list of factors to guide courts in determining whether an entity should be immune from suit as an 'arm of the state.'" Those eight factors include consideration of whether:

"(1) the state created the entity and expressed an intention in the enabling legislation that the entity be treated as a state agency; (2) the entity was created for a public purpose or to carry out a function integral to state government; (3) the entity is financially dependent on the state; (4) the entity's officers, directors or trustees are state functionaries; (5) the entity is operated by state employees; (6) the state has the right to control the entity; (7) the entity's budget, expenditures and appropriations are closely monitored by the state; and (8) a judgment against the entity would have the same effect as a judgment against the state."

The court said that "[t]o establish that an entity is an arm of the state, an entity need not satisfy every criteria. Rather, [a]ll relevant factors are to be considered cumulatively, with no single factor being essential or conclusive."

Here, the trial court had determined that five of the eight factors had been met. The Supreme Court of Connecticut disagreed. It found that only the second

factor had been met: Care Services were created exclusively for the purpose of running the nursing home facility and thus to provide services on behalf of the state to individuals who otherwise would be receiving those services directly from the state. However, looking at the other factors, the Supreme Court of Connecticut disagreed with the trial court and found that none of them were met. Balancing all of those factors, the Supreme Court of Connecticut held that they clearly weighed against a conclusion that Care Services were an arm of the state, entitled to share the state's sovereign immunity.

The court also concluded that the state legislature did not intend, by enacting § 17b-372a, to occupy the entire field as to regulation of nursing home location and preempt municipal zoning regulations. The court found that zoning regulations did not irreconcilably conflict with § 17b-372a or frustrate the state's statutory objective of establishing nursing homes for those in state custody. As a general matter, the court explained that "zoning regulations do not bar outright particular uses of land, but require that they be conducted in certain areas or subject to various conditions." "Thus, a regulation requiring a nursing home facility to be located in a particular zone, or to have a permit that might impose conditions on its operation, does not 'attempt to . . . forbid that which the legislature has expressly authorized . . . but rather, properly subjects what the legislature has authorized to additional requirements,'" said the court.

See also: *Gordon v. H.N.S. Management Co., Inc.*, 272 Conn. 81, 861 A.2d 1160 (2004).

See also: *Bauer v. Waste Management of Connecticut, Inc.*, 234 Conn. 221, 662 A.2d 1179 (1995).

See also: *Greater New Haven Property Owners Ass'n v. City of New Haven*, 288 Conn. 181, 951 A.2d 551 (2008).

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*Case Note:*

The court noted that its conclusion that the facts of the case did not present an appropriate occasion for affording sovereign immunity to a private, for profit entity was supported in the decisions of other jurisdictions. See, e.g. *Rosario v. American Corrective Counseling Services, Inc.*, 506 F.3d 1039, 1047 (11th Cir. 2007) (bad check restitution program run by private contractor for State's Attorney's Office not immune from suit alleging unfair debt collection practices); *Ormsby v. C.O.F. Training Services, Inc.*, 194 F. Supp. 2d 1177, 1179, 1187 7 Wage & Hour Cas. 2d (BNA) 1258, 146 Lab. Cas. (CCH) P 34506 (D. Kan. 2002) (nonprofit corporation overseeing provision of community services for developmentally disabled persons, pursuant to contract authorized by state statute, not immune, as arm of state, from employee's action for overtime wages), judgment aff'd, 60 Fed. Appx. 724 (10th Cir. 2003); *Veolia Water Indianapolis, LLC v. National Trust Ins. Co.*, 3 N.E.3d 1 (Ind. 2014), on reh'g, 12 N.E.3d 240 (Ind. 2014) (private, for profit company operating city's water utility pursuant to agreement not entitled to sovereign immunity in action seeking damages for losses sustained due to inadequate water supply to fire hydrants); *Macon Ass'n for Retarded Citizens v. Macon-Bibb County Planning and Zoning Com'n*, 252 Ga. 484, 490, 314 S.E.2d 218 (1984) (governmentally financed nonprofit organization providing housing for developmentally disabled and mentally ill persons not exempt from local zoning regulations), appeal dismissed, 469 U.S. 802, 105 S.Ct. 57, 83 L.Ed.2d 8 (1984); *Board of Child Care of*

*Baltimore Annual Conference of the Methodist Church, Inc. v. Harker, 316 Md. 683, 685, 693, 561 A.2d 219 (1989) (nonprofit corporation contracting with state to provide adolescent shelter facilities, in pursuit of statutory policy, not entitled to share state's immunity from municipal zoning ordinances); Washington Tp. v. Central Bergen Community Mental Health Center, Inc., 156 N.J. Super. 388, 406-408, 383 A.2d 1194 (Law Div. 1978) (nonprofit corporation contracting with state to provide mental health care and services, pursuant to statutory plan, not immune from township zoning ordinance as arm of state government); but see City of Portsmouth v. John T. Clark & Son of New Hampshire, Inc., 117 N.H. 797, 798-99, 378 A.2d 1383 (1977) (private port terminal operating firm under contract to provide services to state port authority exempt from city zoning ordinance).*

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*Case Note:*

*In its decision, the court emphasized that the extension of a state's immunity to a private, for-profit entity should be a rare occurrence.*

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## Zoning News from Around the Nation

### NATIONWIDE

The United States Supreme Court is considering a case that has the potential to “weaken” the Fair Housing Act of 1968. In the case, the court must address the issue as to “whether the law requires blacks and other minorities to prove intentional racial discrimination in sales, rentals, zoning or lending practices, or whether a policy’s disparate impact is enough to make it illegal.”

Source: *USA Today*; [www.usatoday.com](http://www.usatoday.com)

### DELAWARE

A bill was expected to be introduced in the General Assembly that seeks to limit the University of Delaware’s longstanding immunity from zoning laws. The bill would reportedly “require that [the University of Delaware] conform to relevant zoning restrictions for any commercial development on university property, but would continue the school’s exemption for projects related to student services or academic research.” Bill sponsors say it makes the zoning process more fair for the city of Newark and other commercial developers.

Source: *The News Journal*; [www.delawareonline.com](http://www.delawareonline.com)

### MASSACHUSETTS

A state commission is reportedly recommending major zoning changes for many coastal communities in Massachusetts. A panel is expected to propose “the creation of buffer zones along the coast, where construction is not allowed,” and call for “experimenting with new ways to fight erosion and for the use of ‘sea-level rise scenarios’ when studying new waterfront developments.”

Source: [myfoxboston.com](http://myfoxboston.com); [www.myfoxboston.com](http://www.myfoxboston.com)

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