

Appeals Court Rules for Mahwah Twp. in Fitness Center Zoning Lawsuit

Press Releases

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Mahwah Township, N.J., followed the proper procedures when it adopted an ordinance that opens more commercial zones to health, wellness and fitness centers, a New Jersey appeals court has ruled, reversing a lower court decision in a lawsuit filed by existing health clubs.

The Appellate Division panel concluded that the Township met the legal requirements for adopting the ordinance by giving proper notice, holding a public hearing and creating a record of the reasons for the zoning revisions, which are not included in the township's master plan. In addition to Mahwah Township, the lawsuit names the mayor, council and Planning Board. **Andrew T. Fede** of Archer in Hackensack argued the case for Mahwah Township and the other defendants.

In a published opinion issued on July 5, 2011, the Appellate Division panel stated that the Township satisfied the New Jersey Municipal Land Use Law, which requires that reasons for adopting the ordinance be stated in a written resolution and recorded in the minutes of the public hearing. The panel rejected the lower court's interpretation that the law requires the minutes to contain "a verbatim transcript" of the public debate.

In addition to a number of reasons demonstrating overall compatibility of health and fitness centers in the zones at issue, including similar uses already permitted by variances, the Township noted in the ordinance that "health and wellness centers are a new and unique use not envisioned nor current at the time of adoption of the master plan or zoning ordinance."

The appeals court also nullified lower court orders issued last summer that required the individual defendants to undergo deposition questioning about whether they or their family members had been treated at a hospital

that supported the ordinance change, as well as the nature of the treatment, the outcome, and details about hospital bills.

“Absent a clear showing, which has not been made, that any of these municipal officials has a personal or financial interest,” in the hospital, the panel stated, “the inquiry into what medical treatment they may have received there is overly broad and unnecessarily intrusive.”

The appeals court remanded the case back to the lower court for further proceedings on other issues raised in the case.

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