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Appellate Court Upholds Regional Master Plan

The Appellate Division of the Superior Court of New Jersey published a decision today that affirmed an earlier decision to dismiss a challenge to the validity of the Highlands Water Protection and Planning Act and the Highlands Regional Master Plan. The challenge was brought by nine landowners who claimed the Highlands Act and Regional Master Plan violated the equal protection and due process guarantees of the New Jersey Constitution.

“Today’s ruling is another clear and strong decision in support of the Highlands Act and the validity of the Highlands Regional Master Plan,” Highlands Council Chairman John Weingart said. “It is a confirmation of the transparent public process that led to the adoption of the Highlands Regional Master Plan.”

The challenge was dismissed by Superior Court of New Jersey Judge the Honorable Paul Innes on January 18, 2008, who found the Highlands Act provides disgruntled owners with administrative remedies, and that the Preservation Area boundaries are “rationally related to the purposes of the Highlands Act.” A motion for reconsideration was dismissed.

The landowners’ original complaint claimed that: the Highlands Council did not have the authority to adopt the Highlands Regional Master Plan; the Highlands Act violated the constitutional rights of farmers and large property owners; the transfer of development rights program (TDR) is not a viable source of funding; and the Highlands Act boundaries are not justified by science.

Appellate Division Judges the Honorable Ariel Rodríguez, Edith Payne and Alexander P. Waugh Jr. rejected the arguments, ruling that the Superior Court was correct to dismiss the case.

On the first point, the Appellate Division ruled the Highlands Council’s adoption of the Regional Master Plan did not violate the Highlands Act because the 18-month period for adoption stipulated by the Highlands Act was “directory, rather than as a mandatory deadline.”

The Appellate Division also ruled that, rather than violating the right to farm, “the Highlands Act contains provisions that favor rather than disfavor farming” and other provisions “were expressly meant to benefit farmers.”

On the issue of the constitutional right to equal protection, the Appellate Division found the Highlands Act specifically sought to protect large parcels of land from “fragmented and unplanned development” and “the environmental impacts of sprawl development.” The Appellate Division also noted that the “plaintiffs assert a diminution in the value of their land, which would appear more directly related to their interest in selling or developing their land rather than farming it.”

Lastly, the Appellate Division dismissed the claim that the Preservation Area boundary was not supported by science: “The Legislature drew boundaries relating to the Act's overall goals for water and natural resource protection in the Highlands area, and any imprecision in creating those boundaries is not for the courts to second-guess.”

“Today’s ruling is a clear message that the Highlands Regional Master Plan follows the mandates of the Highlands Act and the Legislature to protect the natural resources of the Highlands Region and promote agricultural viability throughout the Region,” Highlands Council Executive Director Eileen Swan said. “The Highlands Council and its staff will continue its work with municipalities and counties to preserve the unique character of this Region.”

The Appellate Ruling is the second major victory for the Highlands Act in the state courts. On December 9, 2008, the Supreme Court of New Jersey upheld earlier rulings by the Appellate Division and Superior Court that upheld the constitutionality of the Highlands Act.