October 14, 2016

What Will Become Of Jersey City's Tax Abatement Law?

Patrick McCarthy, Mary Rogers and Chris Stracco wrote an article, "What Will Become Of Jersey City's Tax Abatement Law?," in *Law360*. The article is about the significance of a ruling by Third Circuit in *Associated Builders and Contractors Inc. v. City of Jersey City, 2016 U.S. App. Lexis 16654* (3d Cir., Sept. 12, 2016). The decision found that the United States District Court for the District of New Jersey erred in dismissing a suit against Jersey City challenging its ordinance which required the use of union labor on certain construction projects which were subject to property tax abatements. The Third Circuit held that the city was not acting as a "market participant" but rather as a "regulator," and therefore the plaintiffs' National Labor Relations Act, Employee Retirement Income Security Act and dormant Commerce Clause claims against the city were cognizable and thus were reinstated. The significance of this decision is that the plaintiffs' challenge to the ordinance requirement of the PLAs will be allowed to go forward. If the plaintiffs ultimately prevail in their challenge to the ordinance, they may not be required to otherwise comply with its collective bargaining requirements. Other redevelopers may be hesitant to enter into tax abatement agreements with the city under the ordinance unless and until the validity of the ordinance's collective bargaining provisions are adjudicated one way or the other.

Authors

Christopher John Stracco
Of Counsel

Parsippany, NJ | (973) 966-8220

cstracco@daypitney.com