

New Jersey Supreme Court Decision Expands Redevelopment Opportunities

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In 2009, our partners Robert S. Goldsmith and Robert Beckelman wrote an article for the *Rutgers Law Record* entitled “What Will Happen to Redevelopment in New Jersey When the Economy Recovers?” The piece raised concerns, shared by many, over the New Jersey Supreme Court’s 2007 decision in *Gallenthin Realty Development v. Paulsboro*, which curtailed the redevelopment powers accorded to municipalities in the State. The impact of that decision was exacerbated by lower court rulings articulating a higher standard of scrutiny for the review of redevelopment area designations.

On March 23, 2015, those concerns were allayed by the Supreme Court’s 3-2 decision in *62-64 Main Street LLC and 59-61 Monroe Street LLC v. City of Hackensack*, which reaffirms the ability of municipalities to exercise their redevelopment powers and condemn properties that satisfy the requirements of the Local Redevelopment and Housing Law (LRHL) without requiring a further finding that the sites negatively affect surrounding properties. The decision should facilitate redevelopment and provide some greater level of assurance to municipalities and the redevelopment community when it becomes necessary to acquire properties in efforts to effectuate redevelopment plans.

The Court reviewed its decision in *Gallenthin* and limited its applicability to Section 5(e) of the LRHL. While the *Gallenthin* Court imposed a requirement to find a negative impact upon surrounding properties in order to meet the standard for blight, the *Hackensack* court determined that a municipality does not need to demonstrate this effect in order to designate properties as areas “in need of redevelopment” under other sections of the LRHL, which for decades had been upheld as constitutional. The *Hackensack* holding makes clear that *Gallenthin* did not create a heightened standard for finding blight, as some courts had held.

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The Court reviewed the efforts by the City of Hackensack to include two vacant dilapidated buildings and a parking lot with deteriorated pavement within an area “in need of redevelopment.” The City justified inclusion of the properties under three subsections of the LRHL, *N.J.S.A. 40A:12-5*. The properties satisfied subsection (a) because the buildings were substandard and unsafe for occupancy, subsection (b) because the deteriorated condition of the buildings rendered them vacant and untenable, and subsection (d) because of faulty arrangement or design.

The trial court upheld the City’s findings that the properties were in need of redevelopment, but the Appellate Division invalidated the City’s determinations, stating that the City had to meet a heightened standard for blight set forth in *Gallenthin* and had to demonstrate, under every subsection of the statute, that the properties suffered from “deterioration or stagnation that negatively affects surrounding properties.” The Supreme Court rejected the Appellate Division’s analysis and upheld the finding of an “area in need of redevelopment.”

The *Hackensack* Court reviewed the history of the Blighted Areas clause in the New Jersey Constitution and the State’s redevelopment laws and acknowledged the enormous benefits afforded by redevelopment projects that have helped raise some urban areas literally from the ashes. In its opinion, the Court favorably cites the Goldsmith/Beckelman *Rutgers’* article detailing successful redevelopment projects in Jersey City, Newark, Trenton and Perth Amboy. That article can be accessed [here](#).

The authors of this article, **Robert S. Goldsmith** and **Robert Beckelman**, are partners in the firm’s Redevelopment & Land Use Department, which Mr. Goldsmith also co-chairs.