



Town doesn't owe Grabowsky for legal fees, appeals court says



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By **LINDA MOSS**

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An appeals court has ruled that the township doesn't have to pay the legal fees, roughly \$123,000, that Montclair commercial landlord Dick Grabowsky incurred when he successfully sued over a proposed assisted-living facility.

In an 11-page decision released Thursday, the Appellate Division of Superior Court reversed a lower court's decision in 2016 stemming from Grabowsky's lawsuit against the township and its Planning Board.



DICK GRABOWSKY

Several years ago Grabowsky filed suit to overturn an ordinance that allowed construction of an assisted-living facility on a plot of land on Church Street adjacent to the Unitarian Universalist Congregation of Montclair. He alleged that it was a conflict of interest when then-Mayor Jerry Fried and then-Councilman Nick Lewis voted on the ordinance because of their leadership roles at the church.

Ultimately, a trial court found that Fried's and Lewis's involvement in the Unitarian Universalist Congregation should have disqualified them from voting on the ordinance, which was declared invalid. That lower court also found that Grabowsky was entitled to \$115,135 in legal fees and \$8,091 in costs.

The township appealed that decision, leading to Thursday's reversal.

"Because 'sound judicial administration is best advanced if litigants bear their own counsel fees,' the prevailing party in litigation generally is not entitled to an award of attorneys' fees," the appellate court said, citing previous rulings.

Planning Board Attorney Arthur Neiss, who argued the case for that municipal body, said that the appellate court determined that township taxpayers were not required to pay Grabowsky's legal fees.

Grabowsky on Friday said that he had never expected the lower court to grant him legal costs in the first place, so, "We're OK with the [appellate] decision."

He added, "I never entered into the whole concept of fighting the assisted living for the purpose of any financial gain or getting my legal fees reimbursed. I entered into it with only the interest of downtown Montclair at heart."

Now the owners of the proposed assisted-living site are "rethinking what they're going to do with it and it's going to go in a whole different direction now," according to Grabowsky.

"I believe we're going to wind up with a great apartment building there, which would be a terrific asset," he said.

“Frankly, I think senior housing there would be fabulous, I mean over 55 [years], something we don’t have in town. I’m glad that now we have the possibility of getting apartments, but I do believe that over-55 housing would be a great asset to the downtown. Those are people who actually shop downtown. They’ve downsized. They’ve come from other areas because they like the area. They like being in downtown Montclair. They see the growth that’s here. They see the fact that they have entertainment available, that they have retail available, that they have food available, that they have shopping available.”