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Pierce Davis & Perritano Wins Wind Turbine Nuisance Case

Boston, Massachusetts – On April 27, 2017, a Barnstable County jury of 14 returned a verdict in favor of the Town of Falmouth in a private nuisance case over the Town’s wind turbine. Attorneys John J. Davis and Seth B. Barnett of Pierce Davis & Perritano LLP defended the Town in cooperation with Falmouth Town Counsel, Frank Duffy.

The case was filed against the Town in 2013 by two neighbors of the Falmouth Wastewater Treatment Facility, Elizabeth and Neil Andersen of 211 Blacksmith Shop Road, who claimed that the Town’s operation of a 1.65MW wind turbine at the adjacent facility substantially and unreasonably interfered with the use and enjoyment of their home. After deliberating for approximately six hours over two days, the jury disagreed with the Andersens and returned a verdict in favor of the Town.

The seven-day trial featured testimony from 12 witnesses, including two acoustical engineers and a local real estate appraiser. Ultimately, the jury was not persuaded that operation of the Town turbine known as “Wind I” constituted a private nuisance. This represents one of the first wind turbine nuisance cases tried to a conclusion in Massachusetts.

About Pierce Davis & Perritano’s Governmental, Municipal & School Liability Group

Pierce Davis & Perritano LLP has defended over 300 cities, towns, counties, school districts and other governmental entities in Massachusetts and Rhode Island, as well as their officers (both elected and appointed) and employees in actions arising out of the performance of their public duties, including those duties involving land management, zoning, planning, public works, police protection, and student discipline. Our familiarity with local government and with the numerous procedural and substantive defenses available to our clients, as well as our ability to navigate with sensitivity the volatile issues that exist in these matters, enables us to protect municipalities, local governments, and schools against the myriad lawsuits and administrative proceedings currently facing them in the public sector.

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