

## White and Williams Secures Dismissal of Zoning Appeal

11.8.17

David Chaffin and Rachel Eisenhaure recently secured dismissal of a lawsuit challenging zoning variances granted by the City of Boston Zoning Board of Appeals (ZBA). The dismissal clears the way for progress on a large mixed-use real estate development project.

*Ricker, et al. v. Araujo, et al.*, No. 1784-CV-01862 (Massachusetts Superior Court), was initiated in June 2017 by a group of residents of the Jamaica Plain neighborhood of Boston. The plaintiffs, proceeding under the appeal provisions of the Boston Zoning Code, asserted that the ZBA had erred in granting the zoning variances required for the project to proceed. They asked the Superior Court to invalidate the ZBA decision. The filing and pendency of the lawsuit forced the project developer to stop work on the project, and put the future of the project – which will include eight units of affordable housing – in jeopardy.

We filed an early motion to dismiss the lawsuit, arguing principally that the plaintiffs lacked standing to challenge the ZBA's decision. The motion argued that the plaintiffs (a) could not rely on the presumption of standing enjoyed by abutters and certain others, and (b) had not pled and could not prove that they would sustain an injury that was to a right protected by the Zoning Code and that was substantial and particular to them, as opposed to the community as a whole.

On November 3, 2017, an Associate Justice of the Superior Court granted the motion and dismissed the plaintiffs' complaint. The judge adopted the developer's arguments, ruling that the plaintiffs lacked standing.

The developer was represented by David Chaffin and Rachel Eisenhaure.

