Porzio Attorneys Successfully Argued for Cape May to Withdraw from Regional School District

March 5, 2015

Vito A. Gagliardi, Jr., Kerri A. Wright and Okechi C. Ogbuokiri represented Cape May School District regarding the regional district's financial responsibility for a special election. The Lower Cape May School District is a limited purpose school district educating students in grades seven through twelve who reside in the Borough of West Cape May (West Cape May), the City of Cape May (Cape May) and the Township of Lower (Lower). Cape May sought to withdraw from the regional school district because it pays a disproportionate amount for the operation of the regional district, sending only 5% of the students while required to pay over 33% of the tax levy.

Accordingly, a special school election was scheduled pursuant to N.J.S.A. 18A:13-57 to afford the voters of all three communities the opportunity to vote on whether Cape May should be permitted to withdraw. This school election was ordered by a Board of Review, chaired by a representative of the Commissioner of Education. Notwithstanding its having urged the Board of Review to permit the election, when it was finally ordered Lower Cape May Regional argued that it should not have to pay for the election. Over twenty years of precedent and various statutes make it clear that the regional district is the party financially responsible for such an election. Despite this clear precedent, before the Law Division and Appellate Division Lower Cape May Regional took the position that it was not responsible for the costs.

Porzio attorneys successfully argued before both the Law Division and the Appellate Division that Lower Cape May Regional is the appropriate responsible party. In a published decision issued on March 4, 2015, the Appellate Division adopted Porzio's arguments and held that N.J.S.A. 19:60-12 obligates the regional school district to pay the cost of the special school election to determine Cape May's proposed withdrawal from the Lower Cape May School District. 16-2-5993 I/M/O December 9, 2014, Special School Election , App. Div. (Carroll, J.A.D.).