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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1013-15T4

JEFFREY S. FELD, ESQ.,

Appellant,

v.

THE LOCAL FINANCE BOARD,

Respondent.

Argued February 7, 2018 - Decided March 29, 2018

Before Judges Fuentes, Koblitz and Suter.

On appeal from the Local Finance Board,
Department of Community Affairs.

Jeffrey S. Feld, appellant, argued the cause
pro se.

Melanie R. Walter, Deputy Attorney General,
argued the cause for respondent (Gurbir S.
Grewal, Attorney General, attorney; Melissa H.
Raksa, Assistant Attorney General, of counsel;
Melanie R. Walter, on the brief).

PER CURIAM

Jeffrey S. Feld challenges the Local Finance Board's (LFB)
September 9, 2015 decision that he had no statutory standing to
appeal the Director of the Division of Local Government Service's
(Division) approval of the 2014 budget for the City of Orange

Township (City). Because Feld was not a resident or taxpayer of the City, we affirm.

On April 15, 2014, the City Council approved the City's 2014 (CY2014) budget. Because the City Council inadvertently approved the budget without an accompanying ordinance to exceed appropriation limits (known as a CAP ordinance) and because the City intended to exceed those limits, two months later, on June 25, 2014, the City Council rescinded the previously approved budget resolution and passed a new one. Pursuant to N.J.S.A. 40A:4-10, on August 4, 2014, the Director of the Division, Thomas Neff, approved the CY2014 budget as amended.

On August 11, 2014, Feld wrote to the LFB to request that it "investigate the validity" of the budget and his allegations of City mismanagement of finances. His letter stated that he made the request "on behalf of [his] family's various local taxpaying businesses." The letter neither identified the businesses nor explained his relationship to them. Appellant signed the letter as an individual, using an address in Orange, New Jersey.

The Board accepted appellant's letter as an appeal of the Director's decision to approve the CY2014 budget. In argument and testimony at the Board's October 8, 2014 meeting, Feld asked the Board to reverse the Director's decision because "local budget law" did not permit a municipality to rescind a budget and start

anew, or to pass a CAP ordinance after the budget had been approved and then rescind and re-approve the budget. At the meeting, Feld also asserted numerous other unrelated complaints regarding City government.

Director Neff testified the Division had approved the budget "in good faith" and its action was appropriate. Neff warned that, with only two months left in the year, any decision to overturn the CY2014 budget was unlikely "to serve anything at this point other than to throw that municipality's budget into absolute and total chaos." During the meeting, a Board member asked Feld whether he appeared before the Board as a representative of a group, as "a citizen," or as "a taxpayer." Feld responded that he was there as "an Essex County taxpayer." At its January 14, 2015 meeting, the Board voted to affirm the Director's decision in its entirety.

On March 26, 2015, we issued our opinion in the consolidated cases of Feld v. City of Orange Township, (Feld VI and VIII), Nos. A-3911-12 and A-4880-12. In A-3911-12, Feld had appealed the trial court's dismissal, based on standing, of his prerogative writs action against the City and the City Council challenging various City ordinances. We affirmed the trial court's decision that appellant had no standing to challenge the actions of the City Council:

Feld is neither a resident nor a property or business owner in Orange. He lives and pays property taxes in the same county, Essex, but not in the same municipality. He does not have the standing of a resident or property or business owner of Orange to challenge its municipal actions.

[Feld VI and VIII (slip op. at 7).]

Based on this decision, the LFB successfully moved before us for a remand to consider whether appellant had standing to seek review of the Director's decision approving the City's CY2014 budget. Feld asserted that he had standing as an officer, employee, and in-house attorney for the family's tax-paying businesses that were located in the City, and as the son of the sole equity owners of those businesses. The LFB found that appellant had no standing to appeal Director Neff's approval of the City's CY2014 budget and it affirmed its previous decision denying that appeal. The LFB later issued a resolution denying appellant's request for reconsideration.

The Division exercises State regulatory and supervisory power over local governments in New Jersey. N.J.S.A. 52:27BB-6. It is the responsibility of the Director of the Division of Local Government Services to examine and approve or disapprove a municipality's budget and certify the results to the municipality's governing board. N.J.S.A. 40A:4-76 to -79.

Appeals from determinations made by the Director are heard by the LFB. N.J.S.A. 52:27BB-10. A party's standing to appeal the decision of the Director is prescribed by statute. The applicable statute states: "A person, including a taxpayer or citizen, aggrieved by a determination made or an order issued by the director may apply to the board for a review and redetermination." N.J.S.A. 52:27BB-15.

Feld cannot show he was "aggrieved" by the Director's decision. To show that a party has been "aggrieved" by a determination or order, the challenger must show that he or she was adversely affected by the decision. Slater v. Holmdel Twp., 20 N.J. Tax 8, 12 (Tax 2002). As we have explained:

[T]he ability of taxpayers to challenge governmental action is not unlimited. Taxpayers may not assert the constitutional rights of another. "[W]e will not render advisory opinions or function in the abstract nor will we entertain proceedings by plaintiffs who are 'mere intermeddlers or are merely interlopers or strangers to the dispute.'" There must be a substantial likelihood the plaintiff will experience some harm if the court returns an unfavorable decision.

[Loigman v. Twp. Comm. of the Twp. of Middletown, 297 N.J. Super. 287, 295 (App. Div. 1997) (quoting Crescent Pk. Tenants Ass'n v. Realty Eq. Corp., 58 N.J. 98, 107 (1971)).]

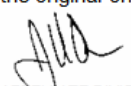
The LFB's standing determination in the current case did not rely on the reasoning of our decision. Instead, the LFB conducted

an independent investigation and reached a conclusion based on the standing requirements of its statute. Judicial deference to an agency's decision is "particularly appropriate" when the decision involves construction of a statute by the agency charged with implementing it. Caporusso v. New Jersey Dep't of Health & Senior Servs., 434 N.J. Super. 88, 104-04 (App. Div. 2014). The interpretation of a statute by an agency empowered to enforce it is entitled to substantial deference. TAC Assocs. v. N.J. Dep't of Env'tl. Prot., 202 N.J. 533, 541 (2010). As long as the agency's decision rests on a permissible interpretation of a statute, it should be upheld by the courts. Saccone v. Bd. of Trs. of Police and Firemen's Ret. Sys., 219 N.J. 369, 391 (2014). The LFB's decision here was an entirely permissible interpretation of the standing requirements of N.J.S.A. 52:27BB-15.

All arguments made by Feld on appeal not expressly addressed by this opinion are without sufficient merit to require discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirm.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION