



PDP Wins Wind Turbine Nuisance Trial

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.

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