policy, prohibiting all employee contact with the media without the prior approval of the Executive Director, was "functionally indistinguishable" from regulations previously invalidated on First Amendment grounds: the policy acted as a prior restraint that was overbroad in its scope, "potentially acting to chill comment by Commission employees, rendered in a private capacity, about non-confidential matters of public concern." The matters upon which Gonzalez spoke were matters of public concern; thus, his speech was that of a citizen, rather than that of an employee. The agency's interests in employee security and the confidentiality of its investigations did not outweigh any interest Gonzalez may have had in expressing his concerns, because his "conduct did nothing to jeopardize" the employer's interests. *In re Disciplinary Action Against Gonzalez*, 964 A.2d 811 (N.J. Super. A.D. 2009).

Finance
Appropriations

In 2008, the Arizona Legislature passed a general appropriations bill, H.B. 2209, for the coming 2008-2009 fiscal year. Section 47 of the bill required Arizona counties, incorporated cities, and towns to pay approximately $30 million into the state general fund (the cities' and towns' share was roughly $18.3 million). The amount for each local entity would be determined by legislative budget committee staff. The League of Arizona Cities and Towns contacted the Governor's Office to express its view that forcing localities to pay into a general fund was unconstitutional under the Arizona Constitution. Meetings between the two parties failed to result in a compromise, and the League sued. The Arizona Constitution stated that, "[t]he general appropriation bill shall embrace nothing but appropriations for the different departments of the State, for State institutions, for public schools, and for interest on the public debt. . . . Any legislation in a general appropriations bill that is neither an appropriation of money for a specific purpose nor a provision necessary for the proper expenditure of that money is improper."

The primary question for the Arizona Supreme Court was whether the legislation was an "appropriation." The court referred to a prior case, *Hunt v. Callaghan*, 32 Ariz. 235 (Ariz. 1927), in which it held that an appropriation was "the setting aside from the public revenue of a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money." The "essential parts of this definition" were the "certain sum," the "specified object," and the "authority to spend." Applying this approach to the case before it, the court found the legislature "did not expressly attach the assessed amount to any public revenue that it had previously set aside for the cities and towns. Because Section 47 fails to identify any prior appropriation, it fails to meet the definition of an appropriation." Addressing the State's argument that the cities and towns had received monies from the State far exceeding the $18 million at issue and the court should "infer that these were the prior appropriations intended to be reduced by Section 47," the court declined to agree. Section 47 did not identify either the urban revenue-sharing funding, or the various discretionary grants made for the benefit of the cities and towns, as appropriations that the legislature designated for reduction. In any event, the various discretionary grants were often subject to restrictions (e.g., use or reimbursement limitations imposed by the federal government) and were not always appropriated to the cities and towns themselves, but to various executive agencies for use by the cities and towns. Because Section 47 did not reduce any identified prior appropriation, it violated the State constitution's limit on the contents of general appropriations bills and was, therefore, unconstitutional. *League of Arizona Cities and Towns v. Martin*, 219 Ariz. 556, 201 P.3d 517 (Ariz. 2009).

Land Use
Vested Rights in Zoning

In 1998, the plaintiff property owners, Alzamora, Dunn, and Creative Homes, Inc., applied for a special use permit to construct a multi-unit seniors' residential building in the Village of Chester, New York. In 2004, while the application was pending, the Village adopted amendments to its zoning law that prohibited the plaintiffs' planned construction under the permit. The plaintiffs alleged that the Village did so knowing that the plaintiffs' construction project was the only pending project in the Village to be affected by the change in law, yet it failed to provide them with actual notice of the meeting at which the proposed amendments were discussed. In 2005, the Village extended the amendment to all multiple dwelling projects, not just those for senior citizens, which meant that the plaintiffs could not use the property to operate a regular adult community to avoid the new requirements. They received no notice of the meeting at which this amendment was passed, although public notice of each hearing was given once by means of publication in the local newspaper. The plaintiffs brought suit pursuant to 42 U.S.C. § 1983, claiming that the special use permit was deemed approved by reason of the Planning Board's failure to approve or disapprove the application within 62 days of its 2002 hearing on their application; second, that the failure to notify them of the meeting was a violation of their procedural due process rights, guaranteed by the Fourteenth Amendment. The Village and its Planning Board moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6), which motion was granted. Under New York law, a property owner had no right to the existing zoning status of his land unless his right had become vested; for it to vest, the owner had to have undertaken substantial construction and must have made substantial expenditures prior to the enactment of the more restrictive zoning ordinance. The lower court held that, because the plaintiffs had not begun any construction at all, they had no vested right that allowed them to construct and operate the project despite the prohibitory changes in the zoning law; thus, they had no protected property interest as required for the due process claim to succeed.

On appeal, the U.S. Circuit Court of Appeals for the Second Circuit affirmed. It declined to address whether the plaintiffs had, in fact, obtained the special use permit by operation of the default provision in the law, as the failure to complete substantial construction meant that they had "no

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