

[COA Opinion: Reversing \\$2.4 million judgment and permanent injunction against Sylvan Township](#)

5-24-2011 by Gaetan Gerville-Reache

On Thursday, May 19, 2011, the Court of Appeals reversed a \$2.4 million judgment against Sylvan Township and vacated a permanent injunction that barred the Township from collecting \$3.8 million in special assessments from two plaintiff developers whose planned residential developments went south when the economy went sour. After multi-million dollar sewer and water systems were constructed to serve the plaintiff developers' parcels in 2002, the developers sued in 2007 for reimbursement of special assessments they had paid and to prevent the Township from collecting further special assessments. According to the developers, Sylvan Township had breached the parties development agreements and violated Public Act 188 by collecting special assessments before the sewer and water systems were "operational," as defined in the contracts. In addition to reimbursement of the \$2.4 million in special assessments they had already paid, the developers also asked for damages equal to all late fees and penalties they had paid the County for failing to timely pay their special assessments.

After an expedited review, the Court of Appeals concluded that the trial court had mistakenly relied on the wrong contract in evaluating some of the developer's claims and remanded for re-evaluation of those claims under the operative agreement. The Court also held that questions of fact precluded summary disposition of other claims and remanded those claims trial. Finally, the Court of Appeals affirmed the trial court's conclusion that the developers could not recover the late fees and penalty interest from the Township.

As a disclaimer, Warner, Norcross & Judd, LLP, represented the prevailing appellant, Sylvan Township.