

Reid Phillips Quoted by North Carolina Lawyers Weekly

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Brooks Pierce managing partner Reid Phillips was quoted by *North Carolina Lawyers Weekly* in an article on the recent ruling by the North Carolina Court of Appeals in *Cordaro v. Harrington Bank, FSB*. Phillips and fellow Brooks Pierce attorney Will Quick represented the defendant.

In 2012, Vince Cordaro applied to Harrington Bank for a construction loan to build a house in Chapel Hill. The bank, after obtaining an appraisal from a licensed appraiser that put the value of the land and finished home at just over \$1.1 million, made the construction loan. As construction neared completion in 2013, Cordaro sought a permanent loan to replace the construction loan. The new appraisal, however, showed the value of the land and home to be much less than \$1.1 million. Therefore, unable to obtain a loan for as much as he wanted, Cordaro sold some of his other assets to cover the shortfall and sued the bank, claiming he would never have built the home if not for the bad first appraisal which, he said, caused him to believe the finished house would be worth more than \$1.1 million.

In his suit, Cordaro argued that Harrington Bank, by obtaining a bad appraisal before it made the construction loan, violated the SAFE Act, which regulates some lending activities, including related appraisals.

The appeals court did not reach the issue of the SAFE Act. Instead, affirming dismissal of the case and upholding the lower court's decision, the Court of Appeals ruled that Cordaro failed to show he actually relied on the construction loan appraisal ordered by Harrington Bank.

"The court, I believe, was cautioning borrowers that they themselves need to be aware of the value of the collateral that they're putting up for a loan," said Phillips. "Especially in a case like this one where a new house is being constructed, they need to be involved and make sure that they are getting the value they expect out of it. That's not something that the lender does for them, or the lender should be expected to do for them."

Phillips also said he expects that at some point the courts will need to decide if the SAFE Act does allow for lawsuits by borrowers against banks who are alleged to have violated it.

"We agreed with the court's approach, which is that they did not need to get to the question of whether there is, or should be, a private right of action, under the SAFE Act," Phillips said. "That day will come someday, but this was not the day, and this was not the case where they needed to decide

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that.”

The full article is available online here.

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