

EXHIBIT 8 - continued

**References to Rathkopf's
The Law of Zoning and Planning § 2:25 (4th ed.)
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1 Rathkopf's The Law of Zoning and Planning § 2:25 (4th ed.)

Rathkopf's The Law of Zoning and Planning | September 2018 Update
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Chapter 2. Constitutional and Legislative Limitations on Zoning
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I. Legislative Limitations

§ 2:25. Zoning regulates the use of land—
Zoning is not a grant of plenary police power

References

To be valid, a zoning ordinance, or decision thereunder, must further a legitimate object and utilize a method of achieving it authorized by the state zoning enabling act. In this regard, a zoning enabling act is held to authorize only local regulation of the use of land and is not considered a grant of plenary police power to be used to resolve the myriad social and economic problems that may exist within a community.¹ Courts recognize that the zoning power is merely one category of the more general police power and, as such, is one specifically concerned and limited to regulation of the use of land within a jurisdiction.² A zoning ordinance or decision thereunder will be held ultra vires when it promotes an objective or utilizes a method of regulation beyond the purview of the state enabling act. All of the foregoing ultra vires issues already discussed herein reflect this basic principle of zoning law.³

An excellent example of this principle is the ruling of the court in *DeSena v. Gulde*.⁴ This was an action by the owner of a vacant parcel of land in Hempstead, Long Island, New York. The village adopted an amendment to the zoning ordinance by which the property, along with adjoining property, was changed from a residential to a light manufacturing district, the amendment being enacted as a result of a master plan prepared by consultants engaged by the village. The area was one populated almost entirely by a minority group. Opposition, to the adoption of the amendment developed both before and after the action of the village board; after adoption of the amendment, the opposition took the form of threats of economic boycott against the merchants of the village, picketing of the village hall and the shopping section, and demonstrations. A delegation of village