

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FRANK LUBY,	§
	§
Plaintiff Below,	§
Appellant,	§ No. 44, 2002
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
THE TOWN OF SMYRNA, a	§ for Kent County
municipality of the State of	§ C.A. No. 00C-07-029
Delaware,	§
	§
Defendant Below,	§
Appellee.	§

Submitted: June 6, 2002  
Decided: June 13, 2002

Before VEASEY, Chief Justice, WALSH, and HOLLAND, Justices.

ORDER

This 13<sup>th</sup> day of June 2002, upon consideration of the briefs of the parties, we conclude that this appeal should be affirmed on the basis of, and for the reasons set forth in, the decision of the Superior Court dated December 27, 2001.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

**AFFIRMED.**

BY THE COURT:

s/Joseph T. Walsh

Justice