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NDG PARTNER SECURES KEY VICTORY IN TIDELANDS DISPUTE

A long-standing dispute over state tidelands claims on a coastal property has been resolved, with attorney Michael J. Lario, Jr. successfully securing a Statement of No Interest (SNI) from the Tidelands Resource Council (TRC). This decision confirms that the property in question is free from any state claim and allows the property owners to move forward without the need for a Tidelands Grant or License.

The property, located in a barrier island neighborhood developed in the 1960s, was part of a larger area once thought to be affected by tidal waters. As part of the development process, the state's Bureau of Tidelands requested a survey to establish the elevations of the marshland and the locations of any former tidal streams. This 1967 survey, conducted by a well-known surveyor of the time, led to the issuance of a "no claim of interest" by the state's Resource Development Council (RDC), the predecessor to the modern Tidelands Resource Council (TRC).

Lario argued that the survey remained valid and had been upheld in past cases involving nearby properties. After reviewing the documentation, the TRC agreed with Lario's position, issuing the SNI and confirming that the property was free from any state tidelands claim.

The resolution marks a significant victory for the property owners, as it eliminates the need for them to obtain a Tidelands Grant or License, which would have come at considerable cost given the rapidly increasing value of properties on the barrier island. With the TRC's decision, the matter is now settled.

Having an advocate who is well-versed in the Tidelands application process and understands the significance of historical surveys is essential to fully protect your property rights against potential claims by the New Jersey Tidelands Bureau. If you are facing similar challenges with your property, contact Nehmad Davis & Goldstein to get expert legal assistance and protect your property rights.



NDG LEGAL EXPANDS INTO BRIGANTINE

Ralph "Paul" Busco has been in the private practice of law in the City of Brigantine and has operated his own law firm there since 2014. He is now "of counsel" to Nehmad, Davis & Goldstein and will serve clients from his Brigantine location.

Paul is a 2009 graduate of Boston University, and Villanova University Charles Widger School of Law in 2012. Paul has been in the real estate and construction world all his life. His family owns and operates AlisonPaul Builders, which has constructed over 150 custom homes in and around Brigantine since 1996. He has been a licensed New Jersey real estate agent since 2005. Paul started in commercial real estate in New York City working for Vornado Realty Trust in the office and retail leasing departments during his law school summers.

Paul's area of practice includes commercial and residential real estate transactions, land development, land use law, riparian and tidelands issues, small business formation and transactions, and wills and estates. He has had more than 100 appearances and applications before the Brigantine planning/zoning board.

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UPDATE: NEW JERSEY ENACTS CONSIDERABLE AMENDMENTS TO THE OPEN PUBLIC RECORDS ACT

New Jersey's Open Public Records Act (OPRA) has been significantly amended recently, with the stated goal of enhancing transparency and accessibility of public records. Yet others have argued the changes make government less transparent. These amendments, effective as of September 3, 2024, change how requesters and custodians obtain and provide public records. Some of these changes include:

1. **No Mandatory Fee Shifting:** prevailing requestors in proceedings involving the Open Public Records Act are not automatically entitled to attorney's fees, but still may recover costs as determined by the Government Records Council or the Superior Court.
2. **Commercial Purpose Requestors:** requestors who seek to use the information for a 'commercial purpose' must now wait up to fourteen (14) business days for a response from a public agency.
3. **OPRA Requests Not for Litigation:** parties to litigation may not use OPRA requests to gain discovery, and the requestor is now required to certify whether he/she is using such requests for the purpose of litigation.
4. **Fee Structure:** public agencies are now required to provide an itemized list of fees and an explanation of the fees to provide records. However, those fees are presumed to be reasonable and the requestor bears the burden of proving a fee to be unreasonable.

Requestors and public agencies involved in requesting or managing public records in New Jersey should familiarize themselves with these amendments to ensure compliance. At Nehmad, Davis, & Goldstein, our proactive approach to new legislation, combined with our dedication to client-focused service, ensures that we are always ahead of the curve in adapting to new laws.

Disclaimer: This Law Alert provides a brief summary of some of the recent amendments to New Jersey's Open Public Records Act and is not intended to serve as legal advice, nor does this constitute an acceptance of representation by our firm.

CANNABIS BILL SIGNED INTO LAW: MAJOR CHANGES FOR THC REGULATION IN NEW JERSEY

Governor Murphy has officially signed NJ S3235 into law, bringing significant changes to the regulation of cannabis and hemp-derived products in New Jersey. This legislation broadens the definition of "Cannabis Item" to include previously unregulated forms of tetrahydrocannabinol (THC), creating a new regulatory landscape for businesses and consumers alike.

Traditionally, when people think of "cannabis" and its intoxicating effects, they are thinking of Delta-9 THC—the primary psychoactive chemical in cannabis. Under the previous law, products containing a certain threshold of Delta-9 THC were subject to the oversight and licensing requirements of New Jersey's Cannabis Regulatory Commission (CRC). However, many other forms of THC exist, including Delta-8 THC, Delta-10 THC, THCa, THCP, THCV, and THCO, some of which also have psychoactive effects similar to Delta-9 THC.

Before this new law, products containing these alternative forms of THC were classified as "hemp," not "cannabis products." This distinction was critical because hemp was not subject to the CRC's oversight and licensing requirements. Now, with the signing of NJ S3235, all forms of THC—regardless of type—will be regulated in the same manner as Delta-9 THC. As a result, any business selling alternative forms of THC must now comply with CRC regulations and obtain the appropriate retail cannabis license. This change has sent shockwaves through the hemp industry. Many businesses that were legally selling products with Delta-8 THC and other variants will now need to quickly adapt and secure the necessary licenses.

In addition to the THC reclassification, the law also allows liquor stores and wholesalers to sell "intoxicating hemp beverages," which are beverages containing more than 0.5mg of THC (including alternative forms) per serving. However, the rollout of these beverages will not be immediate. Liquor stores and wholesalers must now obtain approval from the CRC before selling these products.

This has raised concerns, as the CRC has yet to release the specific rules and regulations governing the sale of intoxicating hemp beverages. In fact, any stores currently selling such products must immediately cease their sales until they obtain the proper licensing and regulatory approval. There is no clear timeline as to when the CRC will issue these new regulations, creating uncertainty for liquor stores and wholesalers interested in offering these products.

While the new law aims to standardize THC regulation in New Jersey, it has left businesses in the hemp and cannabis industries facing new compliance challenges. Until the CRC provides further guidance, many retailers are in a holding pattern, waiting to see how this new regulatory framework will unfold.

This newsletter is an informational publication of the law firm of Nehmad Davis & Goldstein, P.C. and should not be considered formal legal advice or the establishment of an attorney-client relationship.

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