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NEHMAD DAVIS & GOLDSTEIN, P.C. is proud to announce that the **Honorable Mark H. Sandson (J.S.C., Retired)**, and **Chris D'Esposito** have joined our firm.



Prior to joining our firm, **Judge Sandson** practiced law for over 30 years, handling complex litigation, commercial real estate transactions and governmental relations. His vast experience included representation of governmental agencies including the Atlantic County Improvement Authority, the Greater Wildwoods Tourism Improvement and Development Authority and the New Jersey Sports and Exposition Authority. He also represented many casino entities and the New Jersey Casino Association. Judge Sandson was appointed a Judge of the Superior Court of New Jersey in 2007, and served honorably in this position until his recent retirement from the bench. In his years on the bench, he served in the Family Division and was the Presiding Judge of the Chancery Division, General Equity. He proudly ended his judicial career as the Recovery Court Judge in Atlantic and Cape May Counties, creating many new programs which greatly expanded the size and scope of that program, and many of his legal innovations have spread statewide to assist those in recovery. Judge Sandson brings this vast experience to our firm to assist our clients in the many areas in which our firm specializes. We welcome Judge Sandson and believe that our clients are fortunate that they will be able to benefit from this valuable breadth of experience. Judge Sandson will assist our firm in developing and advancing our lawyers and staff to achieve the highest levels of professional and personal accomplishment and to protect the interests of our clients and the values of our office.



Additionally, **Chris D'Esposito** recently joined Nehmad Davis & Goldstein after several years of serving the public as an Assistant Prosecutor in Monmouth and Atlantic counties. His practice is now concentrated in the fields of business litigation, real estate litigation, and land use. Chris is a proven litigator. During his time in the prosecutor's office, Chris served as lead trial counsel in multiple cases that were tried to conclusion before juries in the Criminal Division. Additionally, Chris has litigated a variety of bench trials and a diverse array of non-testimonial and testimonial motions.

Update Regarding the Uniform Construction Code

The Department of Community Affairs has temporarily relaxed certain provisions of the Uniform Construction Code to ensure the continuity of construction without a detriment to the public welfare during the COVID-19 pandemic.

Under the relaxed rules, the timeframe for inspections of minor work (such as routine alterations in an existing one or two-family dwelling and/or the replacement of residential heaters, air conditioners, or water heaters) has been relaxed from the traditional 3 days to 30 days from the termination of Governor Murphy's Executive Order 103, which declared a State of Emergency as a result of the COVID-19 pandemic.

Construction officials are also generally required to perform a preliminary inspection, inspections during the progress of work, and a final inspection. The timeframe for such inspections has been relaxed from the traditional 3 days to 90 days from the termination of Executive Order 103.

Additionally, the relaxed rules address how developers should document construction in the event inspections are unable to be performed due to the spread of COVID-19. Proper documentation is imperative, because all work completed without inspection is done at the builder's risk and will ultimately have to be inspected for compliance with the Uniform Construction Code.

If you have any questions about inspection timeframes, or how to ensure proper documentation of any construction that continues despite the lack of an inspection, contact Nehmad Davis & Goldstein at (609) 927-1177.

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What's all the Racket? The New Jersey Noise Control Act and the Impact on Commercial and Industrial Property Owners

As the most densely populated state in the country, noise control is a unique concern for many New Jersey residents. In response, New Jersey's Noise Control Act ("Act", N.J.S.A.13.1G-1, et seq.) was enacted in 1971 to protect citizens from excessive noise generated by commercial and industrial sources. Pursuant to the Act, the daytime sound level may not exceed 65 decibels (between 7am-10pm) and nighttime sound level may not exceed 50 decibels (between 10pm-7am). This reading is measured at the property line of an affected person. Notable exemptions to this standard include the unamplified human voice and bells, chimes, and carillons in conjunction with religious services.

Enforcement of the Act is delegated to qualified counties and municipalities since local officials are in closer proximity to complaints and can therefore respond in a timely manner. Municipalities have three options as to enforcement:

- Municipalities can institute a model noise ordinance developed as a performance code to be adopted, enforced and adjudicated at the municipal level. The model noise ordinance allows for some flexibility on the part of the municipality, including the ability to make more stringent time constraints for regulating noise;
- Municipalities can adopt a local nuisance code to be enforced by the local police or code enforcement. A nuisance code does not rely on sound levels but rather the subjective interpretation of the local official. While this subjective standard allows for greater flexibility in enforcement for local officials, prosecution with such a flexible standard is difficult; and
- The third option is to rely on the local county health departments. All twenty-one county health departments are required to have at least one person certified through the Rutgers Noise Technical Assistance Center 3-day Noise Enforcement Certification Course. These certified individuals possess a sound level meter which is factory or certified lab calibrated yearly.

If you have questions on pursuing a claim against a noisy neighbor, or in defending your commercial or industrial use against an alleged violation, please contact the firm of Nehmad Davis & Goldstein for additional guidance – (609) 927-1177.



Realty Transfer Fee

If you are selling real estate in the State of New Jersey it is important to understand the Realty Transfer Fee, which is imposed on individuals selling real property in the State of New Jersey for consideration in the event an exemption is not applicable. When determining whether the Realty Transfer Fee is applicable, the first step is to determine whether the transfer is for "consideration." Pursuant to N.J.S.A. 46:15-5, "Consideration" in the context of a deed, is as follows:

[T]he actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title. The amount of liens for real property taxes, water or sewerage charges for the current or any subsequent year, or by way of added assessment or other adjustment, as well as of other like liens or encumbrances of a current and continuing nature ordinarily adjusted between the parties according to the period of ownership shall be excluded as an element in determining the consideration, notwithstanding that such amount is to be paid by the grantee.

A common misperception is that an individual transferring their interest in real property by way of deed for a purchase price of a minimal sum or no sum to an entity solely owned or controlled by that individual is not subject to the realty transfer fee. However, in the event there is a prior mortgage in this scenario and it is being assumed and agreed to be paid by the entity, the assumption of the mortgage, regardless of whether there is any money being transferred, can be deemed consideration and a realty transfer fee may be imposed.

Despite the fact that a transfer involves consideration, in some circumstances a Realty Transfer Fee will be fully or partially exempt. Therefore, the next step in determining whether the Realty Transfer Fee is applicable is to determine whether the transfer qualifies for an exemption. The State of New Jersey lists sixteen reasons for full exemption, which include but are not limited to the following:

1. If the consideration is less than \$100.00;
2. If the transfer is to or by the United States of America or the State of New Jersey;
3. On a sale for delinquent taxes or assessments;
4. If the transfer is by a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;
5. If it is considered an "Ancient Deed"; or
6. If the deed corrects a previously recorded deed.

There are also partial exemptions that may be applicable depending on the type of property being transferred and the status of the seller, such as their age.

Prior to transferring real property in the State of New Jersey it is important to understand the Realty Transfer Fee and to determine whether you qualify for a full or partial exemption. Contact our firm at (609) 927-1177 for further guidance on the Realty Transfer Fee and to assist with your real estate needs.

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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