

Business

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Hometown banker Dorothy Smith retires after 39 years at Bogota Savings. **3**



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ASK A LAWYER

State often willing to sell, lease tidelands

Q. I understand my property is subject to a riparian claim by the state of New Jersey. What does this mean, and what can I do about it?

The state of New Jersey owns all lands submerged below the elevation of the average high tide of water bodies that are influenced by the tides. That land is called the riparian land, or tidelands. The state's claim is based upon the historical natural state of the tidelands, so its title interest in those lands applies even if

the tidelands are filled in, or a bulkhead was built, and the lands no longer have tidal waters.

Even if your deed or the property title does not identify the state's riparian land, the state's claim is still valid. The state's title to the land can create ownership and title issues in real estate deals.

Additionally, because the state owns the riparian lands, any development work undertaken now or in the past on those lands

is at risk and subject to the state's claim of ownership.

The state will, however, sell, lease or license its riparian lands to the adjacent upland property owner. Where the state has no interest in a tidelands parcel, usually because the land was previously filled in and serves no ecological function, the state will sell its interest through a "tidelands grant."

A common situation is that a developed property is adjacent to a river. Part of the property had

contained tidelands, but that land was filled in to make way for the development. The subsequent sale or financing of the property leads to the discovery of the state's tidelands claim. To resolve the title issue, the state will sell the land owner the riparian property. The process of purchasing the tidelands requires an environmental engineer to confirm the existence of the state's claim, a fair market value appraisal of the property, and a lawyer to handle the process with the state.

For properties that still contain tidally influenced waters, the state will consider issuing short-term or long-term (seven- to 20-year) leases or licenses of the tidelands. These leases are typically given for uses such as moorings, docks or marinas. The process of obtaining a lease is essentially the same as obtaining a tidelands grant, and requires the same work by your hired professionals.

David Steinberger is a member

of the environmental department of Cole, Schotz, Meisel, Forman & Leonard PA, the largest law firm in Bergen County. He can be reached at dsteinberger@coleschotz.com, or 201-525-6298. This is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of a client.

Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com.