

C-4, ATTORNEY GENERAL: PINELANDS REDEVELOPMENT



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November 23, 2011

Via Regular & Certified Mail

Mark Demitroff
822 Main Ave.
Vineland, NJ 08360-9346

Re: September 23, 2011 Correspondence to the Office of
the Attorney General

Dear Mr. Demitroff:

I am in receipt of your September 23, 2011 correspondence to the Office of the Attorney General. You asked for a determination as to "who has authority over redevelopment within the Pinelands National Reserve."

As noted in the August 1, 2011 correspondence sent to you by DAG Julie Cavanagh, this office is unable to provide you with legal advice or assistance.

That being said, the New Jersey Constitution authorizes redevelopment. N.J. Const., art. VIII, § III, ¶ 1. Municipal redevelopment is primarily governed by the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., which gives municipalities the authority to designate "areas in need of redevelopment." N.J.S.A. 40A:12A-5. The New Jersey Pinelands Commission's ("Commission") role in municipal redevelopment is only to ensure that any such redevelopment in the Pinelands Area comports with the Pinelands Comprehensive Management Plan ("CMP") adopted in accordance with the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq. See N.J.A.C. 7:50-4.11 et seq. (development in municipalities not certified in compliance with the CMP); N.J.A.C. 7:50-4.31 et seq. (development in municipalities certified in compliance with the CMP). The Commission has no authority to implement the New Jersey Local Redevelopment and Housing Law.

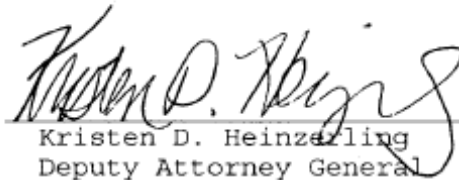


Finally, it should be clarified that, since your letter asks who has authority over redevelopment in the "Pinelands National Reserve," the Commission's authority is limited to the "Pinelands Area" as defined by N.J.S.A. 13:18A-11. See also N.J.S.A. 13:18A-3; N.J.S.A. 13:18A-8. Although the CMP constitutes the management plan called for by the National Parks and Recreation Act of 1978, 16 U.S.C. §471i(f), the Commission's jurisdiction is limited to those portions of the Pinelands National Reserve that overlap with the Pinelands Area. The New Jersey Department of Environmental Protection has primary jurisdiction over those portions of the Pinelands National Reserve located outside the Pinelands Area within the Coastal Area. See N.J.S.A. 13:18A-23 and N.J.A.C. 7:7E-3.44 which provides that "[w]ithin the Pinelands National Reserve, the Pinelands Commission will serve as a reviewing agency for the coastal construction permit applications."

Sincerely yours,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: _____


Kristen D. Heinzelring
Deputy Attorney General

C: AAG Kevin Auerbacher
AAG Robert H. Stoloff
DAG John Renella
DAG Christine Piatek

Pinelands Commission synopsis of Richland Village Redevelopment problems

4) **Mark Demitroff** (Richland Village, Buena Vista Township resident)

Mr. Demitroff introduced the topic of redevelopment and issues that he has had in addressing violations of state redevelopment statutes by Buena Vista Township. He initially approached the Department of Community Affairs (DCA), whose representatives indicated that a Memorandum of Understanding between DCA and the Pinelands Commission granted jurisdiction over development in the Pinelands Area to the Pinelands Commission. When Mr. Demitroff approached the Pinelands Commission with his concerns, the Commission responded that the Commission lacked authority to enforce the state redevelopment statutes and directed him to contact the Local Finance Board. The Local Finance Board indicated that the Pinelands Commission has jurisdiction over redevelopment in the Pinelands Area and suggested he contact a New Jersey Deputy Attorney General (DAG) for guidance. The DAG considered Mr. Demitroff's question and consulted with the Attorney General (AG), Paula Dow. Attorney General Dow made the determination that all development in the Pinelands, including redevelopment, must comply with the CMP. However, the CMP contains no provisions to give the Commission authority to review violations of the state redevelopment statute. As a result, Mr. Demitroff suggested that redevelopment be addressed in the CMP, to the effect that redevelopment should not be permitted in the Pinelands.