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From: Lashway, Lisa
Sent: Friday, October 17, 2014 3:51 PM
To: Canning, Sean; Gouveia, Susan
Subject: FW: Press Release
Attachments: Sandy Easements - P114.pdf

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Subject: Press Release

Dear Clerks:

Attached is a press release concerning the property easements needed for shoreline projects.

Sincerely,

Cindy W. Randazzo

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NEWS

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Bob Martin, Commissioner

FOR IMMEDIATE RELEASE:
October 16, 2014

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STATE OBTAINS BULK OF EASEMENTS NEEDED FOR SHORELINE PROJECTS; EFFORTS TO ACQUIRE REMAINING EASEMENTS CONTINUING

(14/P114)TRENTON -- Acting Attorney General John J. Hoffman and Department of Environmental Protection (DEP) Commissioner Bob Martin announced today that the State has obtained more than 80 percent of the property easements needed to enable construction of shore protection and flood mitigation projects designed to safeguard New Jersey residents against a future hurricane or other significant coastal storm.

In response to the destruction caused by Superstorm Sandy two years ago, as well as the announced availability of federal funding for coastal hurricane and storm damage reduction projects, Governor Chris Christie issued Executive Order No. 140 in September 2013. Among other things, the Executive Order directed the Attorney General's Office and DEP to take whatever action was required to obtain property easements that would enable a series of projects involving beach widening and construction of engineered dunes along the New Jersey coast.

At the time Executive Order 140 was issued, the State needed approximately 2,850 public and private easements. As of today, approximately 2,400 of those easements have been obtained, and vigorous efforts to acquire the remaining 400 easements are continuing.

Acting Attorney General Hoffman explained that the vast majority of easements obtained to date have been provided voluntarily by property owners.

"The property easements we have obtained, and the easements we still seek, are vital to coastal protection efforts that benefit all New Jersey residents," Acting Attorney General Hoffman said. "We appreciate that many property owners – clearly mindful of the destruction caused by Superstorm Sandy -- have unselfishly donated easements for the greater good rather than engage the State in protracted litigation. But to those who continue to hold out, our message is that we remain committed to acquiring these easements as expeditiously as possible, and -- consistent with a landmark Supreme Court decision issued in 2013 -- without paying a king's ransom as compensation."

"Governor Christie and I have been extremely clear on this matter," Commissioner Martin said. "Sandy taught us sobering lessons about the critical need for beach and dune systems as an integral part of making New Jersey more resilient in the face of future storms and floods. We commend the property owners who have done the right thing by working with us and

understanding their civic responsibility in helping to protect their communities and their neighbors. Those who continue to hold out must step up as well, or we will take necessary steps to secure those easements."

According to Acting Attorney General Hoffman, the State's success in obtaining voluntary easement donations has been the result of concerted outreach efforts, which have included letters, public meetings, private meetings and, in some cases, the commencement of condemnation proceedings (but not actual litigation).

In addition, the towns of Ocean City, Longport and Middletown – at the direction of the Division of Law – have adopted Resolutions under the Disaster Control Act taking approximately 20 easements that were not provided voluntarily by property owners. The State also has issued an Administrative Order taking approximately 15 easements needed in Elsinboro.

A significant reason why so many of the 2,400 required easements have been obtained voluntarily is the landmark decision of the New Jersey Supreme Court, issued in July 2013, that resulted from strong advocacy by the State regarding how to determine compensation for easements needed for an already-completed shore protection project in the Borough of Harvey Cedars.

One of those easements – an easement sought from beachfront property owners Harvey and Phyllis Karan – was obtained for $1 as part of an eventual legal settlement that ended years of litigation. The litigation process began with the Borough seeking to obtain an easement from the Karans to build a 22-foot-high dune on a portion of their lot. The municipality used its power of eminent domain to acquire the needed easement. However, the parties could not agree on fair compensation and ended up in court, where the DEP ultimately became an intervenor.

A trial jury placed the value of the Karan's easement at $375,000, and the Appellate Division upheld that verdict. However, on July 8, 2013, the state Supreme Court overturned the Karan's $375,000 jury award and ordered a new trial. In reversing the jury award, the Supreme Court held that homeowners who are subject to a property-taking on behalf of public projects "are not entitled to a windfall" that disregards the protective benefits of those projects to their own property. The Karans subsequently settled, accepting $1 as compensation.

The State was confronted with another legal challenge by Harvey Cedars residents Victor and Carolyn Grossier, who sought a total of $800,000 for their beachfront easement, including $600,000 in damages. In June of 2014, however, a jury determined that the protective benefits of the project outweighed any damages, and that the homeowners should receive only $300 in compensation.

Planned shorefront protection projects requiring easements include:

- beach widening and dunes construction from Great Egg Harbor to Townsend Inlet in Ocean City, Upper Township, and Sea Isle City;

- beach widening and dune construction from Brigantine Inlet to Cape May Inlet-Absecon Island in Margate and Longport;

- beach widening and dunes construction from Barnegat Inlet to Little Egg Inlet-Long Beach Island (Beach Haven, Long Beach Township, Ship Bottom, Surf City);

- beach widening and dunes construction from Manasquan Inlet to Barnegat Inlet in northern Ocean County (Bayhead, Berkely, Brick, Lavalette, Mantoloking, Point Pleasant Beach, Toms River, Seaside Heights and Seaside Park);

- beach widening from Sandy Hook to Barnegat Inlet Section 1 (Allenhurst, Deal, Loch Arbour and Long Branch);

- beach widening and dunes construction along Raritan Bay at Port Monmouth (Middletown);

- beach widening along the Delaware River coastline in Elsinboro (Oakwood Beach).

In addition DEP, working with the Federal Highway Authority, is proceeding with a "steel revetment" project in Mantoloking and Brick as a last line of defense in the area where the ocean breached the barrier island to create an inlet during Sandy. To date, no compensation has been paid to any private property owners for easements provided voluntarily.

# # #