



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]

Sent: Wednesday, November 26, 2008 6:17 PM

To: Lashway, Lisa

Subject: Municipal Clerks from NJLM

NJLM Bulletin

Wednesday, November 26, 2008

COAH REGULATIONS UPDATE

An update on some developments related to the COAH "3rd round regulations" and the League's challenge of the regulations.

<http://www.njslom.org/ml112608-b.html>

Appellate Division Strikes Down DEP Rules

In the case of *Borough of Avalon v. New Jersey Department of Environmental Protection (A-3710-07T3)*, handed down by the New Jersey Appellate Division on November 19, 2008, the Court struck down rules promulgated by the Department of Environmental Protection (DEP) requiring that municipally-owned beaches be open at all times unless permission to close them was obtained from the DEP, as well as those conditioning the grant of state aid for shore protection on the provision of parking spaces or restrooms in proximity to the beach. The court said that neither the Public Trust Doctrine nor the Coastal Areas Facility Review Act (CAFRA) gave the DEP authority for either of these rules, and that until and unless the Legislature specifically gave this authority to the DEP, the agency could not usurp the municipality's statutory authority under its police powers to control its beaches.

<http://www.njslom.org/ml112608-a.html>

From the League's Staff, Officers and Executive Board -

We wish you a Happy Thanksgiving