



Superior Court of New Jersey, Appellate Division, Reverses the New Jersey Department of Environmental Protection's Decision in Favor of Cedar Knolls 2006, LLC

09/19/17

A Wilentz team prevailed on behalf of Cedar Knolls 2006, LLC in an appeal heard by the Superior Court of New Jersey Appellate Division concerning its eligibility for a New Jersey Department of Environmental Protection (NJDEP) Hazardous Discharge Site Remediation Fund Innocent Party Grant for remediation of its 8-acre parcel located in Cedar Knolls, New Jersey.

In 2015, Cedar Knolls 2006, LLC applied to the NJDEP for an Innocent Party Grant to cover remediation costs, after the property was first purchased by Robert Higginson in 1977, then sixteen years later passed to his wife Evelyn and in 2006 to her son William, who later transferred his interest in the property to the newly created Cedar Knolls 2006, LLC. However, the application was denied on the grounds that the entity that acquired the property prior to December 31, 1983 did not continue to own the property when the grant application was submitted and the grant applicant was not considered a "person", in accordance with the Brownfield and Contaminated Site Remediation Act.

On September 20, 2017, the Superior Court of New Jersey Appellate Division reversed the NJDEP's decision denying Cedar Knolls' Innocent Party Grant application to cover remediation costs of the contaminated property in accordance with the Brownfield and Contaminated Site Remediation Act, finding the property's transfer to trusts among family members did not constitute a change of ownership under the Industrial Site Remediation Act.

Practices

- Environmental
- Appellate Practice