

## MASSACHUSETTS ENVIRONMENTAL AND LAND USE ALERT

APRIL 2007

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### **MassDEP Proposes 20 Percent Reductions in Permitting Timelines**

In response to a promise by Governor Patrick to reduce the time necessary to obtain environmental permits, MassDEP has proposed across-the-board reductions to the timely action schedules in the Mass DEP permitting regulations.

### **MassDEP Proposes Regulatory Changes Relating to Stormwater Management Standards**

MassDEP has proposed modifying and incorporating into regulation the best management practices for stormwater that must be implemented under certain orders of conditions issued under the state Wetlands Protection Act and certain water quality certifications issued under the state Clean Waters Act..

### **Mass DEP Proposes Regulations Implementing the Mercury Management Act**

MassDEP has proposed its first phase of regulations responding to mandates in the Mercury Management Act (Ch. 190 of the Acts of 2006) to develop programs that accomplish a mercury product take back requirement for manufacturers of mercury containing products, and a phase out of the sale of certain mercury containing products.

### **MassDEP Proposes Asbestos-in-Soil Regulations**

MassDEP has proposed significant changes to air, site cleanup and solid waste regulations and policy to address asbestos fibers and asbestos-containing material (ACM) found in the environment at significant levels.

### **Massachusetts Amends Chapter Land Statutes Effective March 22, 2007**

On March 22, 2007 the first significant amendments in over thirty years, to the so-called Chapter Land statutes ("Statutes") went into effect. The Statutes offer a favorable tax classification for land held and used in accordance with the statutory requirements, that is for forest (Chapter 61), agricultural and horticultural (Chapter 61A), and open space and recreation purposes (Chapter 61B). In return, the municipality in which the land is located obtains a right of first refusal ("ROFR") exercisable in the event the owner decides to sell or convert the land to a non-Chapter Land use. The recent Amendments clarify and codify practices that have developed over the Statutes' lengthy history.

### [Appeals Court Strikes Weston Zoning Bylaw Provision for Granting Unlimited Discretion to Board](#)

An abutter challenge to a special permit for storage of items related to property owners' landscaping and snowplowing business on their residentially zoned property resulted in the Appeals Court striking the provision of the Weston Zoning Bylaw that authorized such a permit in *Fordham v. Butera*, 68 Mass. App. Ct. 907 (2007).

### [Appeals Court Holds a Decision of the HAC in an Administrative Appeal of a Comprehensive Permit Issued Under Chapter 40B Does Not Moot an Abutter's Appeal to Superior Court](#)

In *Taylor v. Board of Appeals of Lexington*, 68 Mass. App. Ct. 503 (2007), the Appeals Court considered the relationship between separate developer and abutter appeals of a comprehensive permit issued pursuant to G.L. c. 40B, which result in the same decision being appealed both to Superior Court and the Housing Appeals Committee (HAC).

### [Supreme Judicial Court Rules View Easements May Not Be Limited to 30 Years](#)

In *Patterson v. Paul*, SJC-09847 (March 30, 2007), the Supreme Judicial Court held that certain "view easements" intended to protect the view of one property owner by restricting development on the property of another may not be affected by a statutorily imposed limit on the duration of restrictions on land.

Washington, D.C. Maryland New York New Jersey Massachusetts Texas California

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