

Douglas I. Eilender

Partner

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Overview

Environmental Chair Advising on Real Estate Transactions, Brownfield Redevelopment, and Regulatory Compliance

Douglas I. Eilender, Chair of the firm's Environmental Law practice group, emphasizes in his practice all aspects of environmental law, including corporate and real estate transactions, including due diligence investigations and negotiating the environmental provisions of those transactions, as well as regulatory and land use matters. Doug's practice also includes the oversight and negotiation of cost recovery and insurance coverage claims. Part of his practice focuses on the redevelopment of Brownfield sites that are underutilized due to contamination.

Prior to his legal career, Doug was associated with a national environmental consulting and engineering firm. As an environmental consultant, he conducted and managed environmental due diligence audits, which included Phase I and Phase II environmental site assessments, asbestos and lead paint surveys and water quality analyses. As such, he is well positioned to interact with environmental consultants and provide accurate practical business advice to clients.

Experience

Doug has played a prominent role representing an array of businesses, developers, real estate entities, big box retailers and financial institutions, including:

- A regional developer in its acquisition of a large shopping center in NJ. Given the site's history of remediation due to a former dry?cleaning operation, an extensive review of years of investigation and remediation data, coordinating closely with the seller's consultants and counsel, outside real estate and environmental counsel, and lender's counsel. To address environmental risk and support a successful closing, the parties structured a substantial environmental escrow to secure regulatory closure to the existing NJDEP case and secured a comprehensive environmental insurance policy that addresses certain claims for pre?existing and newly discovered conditions.

- An international paper company with the sale of one of its mills in central New Jersey, which included negotiating a protective purchase and sale agreement with a sophisticated buyer. As this was an industrial property that has had a storied environmental past, our services included managing significant site investigation, coordinating and satisfying buyer's consultants, procuring environmental insurance, transferring water allocation rights and obtaining NJDEP clearance to close prior to obtaining administrative

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closure under the Industrial Site Recovery Act.
- A national finance company in reviewing and assessing environmental risks and negotiating loan documents and obtaining lender's pollution legal liability insurance for numerous properties throughout the United States.
- A national retailer in securing Brownfields approval, which allowed it to recover in excess of $1 million of its remediation costs;
- A car dealership in performing environmental due diligence, development and financing of a service facility;
- A car dealership in the environmental aspects of the acquisition and financing of a former motorcycle dealership, including the performance of environmental due diligence and subsequent cleanup that received a conditional response action outcome (RAO) issued by a licensed site remediation professional (LSRP);
- A health care company to perform environmental due diligence and cleanup of several properties in New Jersey;
- A national finance company in reviewing and assessing environmental risks and negotiating loan documents associated with a loan secured by a retail pharmacy formerly operated as a gas station located in Missouri that was enrolled in Missouri's UST Fund Program;
- A wire hanger manufacturing company in navigating New Jersey's Industrial Site Recovery Act (ISRA) with New Jersey Department of Environmental Protection's issuance of an Entire Site, Unrestricted No Further Action Letter;
- A machine and tool manufacturing facility in the completion of the requirements of ISRA with the issuance of an RAO from an LSRP;
- A shopping center owner as local environmental counsel in lease negotiations with several national retail tenants; and
- Advising clients on obtaining federal, state and local permits needed to develop in or near environmentally sensitive areas, such as wetlands, coastal areas, streams, flood ways and the Pinelands.

Doug has been an active member of the International Council of Shopping Centers.

Professional Affiliations

- International Council of Shopping Centers

Awards

Super Lawyers® "Rising Star" list (2010) Super Lawyers® list (2019 – 2026) The Best Lawyers in America® (2016)

Publications

- NJDEP Interim Rule Modification Extends Mandatory Remedial Action Timeframe, February 11, 2021, READ HERE
- Lenders, Now Is Not The Time To Skimp on Environmental Due Diligence (hint: there never really is), June 24, 2020, READ HERE
- NJDEP Notification Requirements Remain – Despite COVID-19 Concerns, March 26, 2020, READ HERE
- Fear Not – Lending on Environmentally Challenged Real Estate, June 2019 *EBA Summer Journal*
- Fear Not – Lending on Environmentally Challenged Real Estate, Spring 2019, *View from the Bar*
- Environmental Tips From An Environmental Attorney, February 8, 2019, READ HERE
- Environmental Tips From One Of Our Environmental Attorneys, Fall 2018, *View from the Bar*
- NJDEP Maintains the Authority to Take Perpetual Easement as Part of Condemnation Proceeding at NJ Shore, June 28, 2017, Environmental Law Bulletin, READ HERE.
- Mandatory Cessation of Perc Dry Cleaning Equipment Located in Buildings with Residential Use by

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December 21, 2020, *Environmental Law Bulletin*, September 30, 2016.
- General Partners Held Individually Liable Due to Failure to Perform Proper Environmental Due Diligence Prior to Acquisition of Property in New Jersey, April 15, 2016 Environmental Law Bulletin.
- New Jersey's High Court Finds There is No Time Limitation to Bring a Spill Act Claim, *Environmental Law Bulletin*, February 3, 2015.
- The New Environmental Due Diligence Standard Saga Continues, Environmental & Energy Law Monitor, January 30, 2014.
- May 2014 is not that far away – New Jersey's Mandatory Deadline for Remedial Investigations, Environmental & Energy Law Monitor, July 10, 2013.
- EPA Issues Revised Enforcement Guidelines Regarding Tenant Liability Under CERCLA's Bona Fide Prospective Purchaser Provision, Environmental & Energy Law Monitor, February 26, 2013.
- New Jersey Property Tax Refunds May Be Held To Cover Environmental Remediation, Environmental & Energy Law Monitor, September 20, 2012.
- Practical Considerations in Real Estate Transactions in Light of SRRA, New Jersey Law Journal, June 4, 2012.
- Essex Chemical Successfully Challenges NJDEP's Natural Resource Damages Suit, Environmental and Energy Law Monitor, April 12, 2012.
- NJDEP has Finalized its Vapor Intrusion Technical Guidance Document, Environmental & Energy Law Monitor, January 25, 2012.
- New Jersey Appellate Court Grants Hearing to Contest Rescission of a No Further Action Letter, Environmental & Energy Law Monitor, November 30, 2011.
- Public Notification and Outreach Rule Update, Environmental & Energy Law Monitor, August 26, 2011.
- NJDEP Proposes Common Sense Waiver Rule, Environmental & Energy Law Monitor, March 11, 2011.
- Proposed Amendments to DEP Site Remediation – Mandatory and Regulatory Timeframes, Environmental & Energy Law Monitor, December 1, 2010.
- NJDEP's New Vision, Environmental & Energy Law Monitor, September 20, 2010
- Interim Regulations Passed That Revamp New Jersey's Site Remediation Program, Environmental & Energy Law Monitor, January 6, 2010.
- Ask A Lawyer: Environmental Review is a Must, The Record, September 24, 2009.
- Public Outreach Rule Deadline Approaching, Environmental & Energy Law Monitor, July 31, 2009.
- Governor Corzine Signs Site Remediation Reform Act, Environmental & Energy Law Monitor, May 8, 2009.
- NJ Proposes A Licensed Site Professional Program, Environmental & Energy Law Monitor, March 5, 2009.
- Ask A Lawyer: Gasoline in the Soil: Two Long-Term Worries, The Record, June 17, 2008.
- Asbestos Still Used in Buildings Today, Cole Schotz Docket, Spring 2008.
- The Impact of NJDEP's Vapor Intrusion Guidance, New Jersey Law Journal, February 6, 2006.
- Reporting Historical Contamination, New Jersey Law Journal, February 16, 2004

Areas of Practice

- Environmental Law *(Chair)*
- Hospitality Services
- Construction Law

Admission

- State of New Jersey, 2000
- State of New York, 2002

Education

- Seton Hall University School of Law, JD, 2000

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- New Jersey Institute of Technology, MS, 1996
- Franklin & Marshall College, BA, 1994

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