

Appellate Division Provides Insight Into Rights Inherent to Tidelands Grants and Tidelands Licenses

Article By:

Michael J. Gross

A new unpublished case decided by the Appellate Division provides insight into how courts view those rights granted to the holder of tidelands grant versus those afforded by a tideland's license. *In the Matter of P.T. Jibsail Family Ltd. P'ship Tideland License* involved the appeal of the issuance and modification to a tidelands license affecting properties owned by appellant Janine Morris Trust ("JMT") and respondent P.T. Jibsail Family Limited Partnership ("Jibsail") situated along Barnegat Bay. JMT argued that the approval of the modified tidelands license to Jibsail – allowing for the construction of a 300-foot-long dog-legged dock protruding into Barnegat Bay – was arbitrary, capricious, and/or unreasonable because the dock hampered JMT's access to navigable waters.

In analyzing JMT's argument the Appellate Division reviewed the fundamental differences between tidelands grants and tidelands licenses, including: (1) that a tidelands grant "is [a] conveyance in fee simple of real property," *Panetta v. Equity One, Inc.*, 190 N.J. 307, 309 (2007), while a tidelands license allows the licensee only "to rent an area of land . . . depicted on the [associated] plan"; and (2) that a tidelands grant generally extends the full width of the ripa or the width of the adjacent upland parcel whereas a tidelands license grants to the licensee the right to use only the area of tidelands circumscribed by a "license box" or an outline that closely approximates the size of the permitted structure and generally only includes water areas, not uplands. *Ibid.*

The Appellate Division noted that these differences affect the riparian rights associated with each means of conveyance. More specifically, a tidelands grant conveys to the riparian owner the right to the land under the water with that land extending far enough out to allow the riparian owner to access navigable water. Conversely, a tidelands license conveys to the licensee only the right to use the land under the water contained within the limited "license box". As such, the licensee's right to use adjacent water is no stronger outside of the "license box" than the riparian right of any other member of the public.

Applying these principles, the Appellate Division found that JMT's ownership of a tidelands license did not prevent the State from claiming title to and managing the tidelands outside of JMT's licensed area, nor did the license grant JMT any greater right than that of the general public to the navigable waters ostensibly impacted by Jibsail's dock. Accordingly, the Appellate Division found the issuance of the tidelands license to Jibsail to be neither arbitrary, capricious, nor unreasonable.

National Law Review, Volume XIV, Number 141

Source URL: <https://natlawreview.com/article/appellate-division-provides-insight-rights-inherent-tidelands-grants-and-tidelands>