

REAL ESTATE AND ENVIRONMENTAL LAW

Environmental Law | Land Use Permitting | Real Estate and Environmental Litigation

For nearly 100 years, Mirick O'Connell has provided real estate advice to individuals, institutions and businesses in Central Massachusetts and throughout New England. Our Real Estate and Environmental Law attorneys have the expertise needed to economically handle complex real estate matters that protect our clients' real estate investments.

Environmental Law

Mirick O'Connell's Environmental Law Group is an interdisciplinary team of seasoned environmental, land use, litigation, and municipal attorneys assisting our clients in all aspects of environmental litigation, enforcement, regulatory appeals and permitting. We also work with an extensive network of experienced environmental and engineering consultants to deliver a custom-designed approach to every matter. Our clients include manufacturers, developers, property owners and municipalities in waste site cleanup disputes, cost recovery actions and related environmental insurance claims, as well as enforcement and permitting matters involving air, water, wetlands and endangered species. From cutting-edge issues involving emerging contaminants like PFAS and 1,4 dioxane at landfills and manufacturing facilities to more common releases involving chlorinated solvents, oil and gasoline at dry cleaners and gasoline stations, our team has the knowledge, experience, network and contacts to navigate the evolving landscape of federal, state and local regulation of our environment.

Representative Matters

- Obtained a judgment and award of attorney's fees for a property owner under M.G.L. c.21E (the Massachusetts Superfund statute), and successfully defended the judgment on appeal, against a municipality requiring it to conduct a multi-million dollar assessment and remediation of an historic landfill.
- Represented a municipality in the defense of a citizen suit claims alleging 1,4 dioxane contamination from a municipal landfill under the federal Clean Water Act, the Resource Conservation and Recovery Act, and state claims under M.G.L. c. 21E and various tort theories.
- Represented a customer of a barrel recycling facility in federal litigation under CERCLA involving a Rhode Island site contaminated with dioxin.
- Represented an international bank in a dispute involving TCE contamination of a distressed property briefly owned by our client after a foreclosure.
- Successfully obtained the rescission of our client's purchase of a 78-acre property based on the seller's failure to disclose known-PCB contamination.
- Represented a municipality in litigation and drafting regulations related to the potential siting of a soil reclamation facility.
- Obtained a multi-million dollar arbitration award and judgment for breach of contract and unfair business practices claim on behalf of a leading designer of pollution control systems for power plants.
- Represented a regional school committee in the defense of various constitutional and tort claims involving the alleged lead contamination of drinking water.
- Represented property owners, operators and municipalities in various wetland enforcement actions under the Massachusetts Wetlands Act and state and local wetlands regulations.
- Represented a Massachusetts municipality before the Massachusetts Supreme Judicial Court in a case of first impression regarding regulatory takings.
- Represented numerous clients in a variety of industries (including technology, manufacturing, automotive and construction) defending and resolving environmental compliance actions brought by State and federal regulators.



Practice Area Contact:

Todd K. Helwig
508.860.1462
thelwig@mirickoconnell.com

Attorneys

Ashley P. Coffey
Patricia L. Davidson
Peter J. Dawson
Brian R. Falk
Todd K. Helwig
Spencer B. Holland
Stephen F. Madaus
David K. McCay
Erik J. McHale
William J. Morrissey
John A. Shea

Excellence in our work.
Excellence in client service.
Excellence in value.

Land Use Permitting

Mirick O'Connell's transactional real estate practice encompasses all real estate sectors and includes the representation of individuals, businesses, institutions and public entities in the acquisition, financing, disposition and management of real estate assets. We also represent landlords and tenants in the negotiation and drafting of leases and subleases for office, retail, industrial, biomedical and R&D space.

Our attorneys assist clients in the planning and permitting of real estate projects, from single-family homes to manufacturing facilities. We understand the political framework in which all real estate development projects exist and have the experience, contacts and judgment required to shepherd a project to fruition and profitability. We also have extensive experience with the redevelopment of former manufacturing properties and the conversion of existing structures into residential and commercial condominiums.

Today, every real estate development project is subject to some degree of environmental scrutiny. We have the expertise to navigate the world of overlapping and multi-jurisdictional environmental permitting requirements. Once a project has been permitted, we also have the skills and knowledge to draft and negotiate the construction documents needed to complete the project in a cost-effective and timely manner. Our construction experience includes green building design and renewable energy projects.

Representative Matters

- Represented a school system in connection with a \$35 million acquisition, financing and ground lease transaction for the district's elementary and middle schools and for the construction of a new high school
- Represented a developer in connection with the acquisition, financing and construction of a continuing care retirement project
- Represented a limited liability company in connection with the acquisition of a nursing home facility in Worcester
- Represented a manufacturing company in connection with the acquisition and financing of a new manufacturing facility
- Represented a developer in obtaining zoning and state relief for the redevelopment of a one million square-foot mill building
- Represented several developers in large multi-building commercial office park projects
- Represented a local college in the permitting of a new student residence hall and parking garage

Real Estate and Environmental Litigation

Our attorneys regularly handle all types of real estate and environmental conflicts. We understand that land is unique and that real estate disputes create challenging legal, financial and sometimes even emotional issues. Our litigators have the ability, resources and trial experience necessary to resolve these challenging issues in a creative and cost-effective manner.

We have successfully resolved cases on behalf of developers, contractors, buyers, sellers, landlords, commercial tenants, municipalities and utilities. We regularly handle zoning and subdivision disputes and appeals before local permitting boards, the Housing Appeals Committee for affordable housing projects under Chapter 40B, and in court. We have litigated numerous disputes arising out of the purchase and sale of real estate, including claims for breach of contract, misrepresentation and unpaid commissions. We have also litigated a variety of matters involving title, adverse possession, boundary disputes, title insurance, tax abatement and eminent domain matters.

Our Firm has a vibrant environmental litigation practice where we represent clients in all aspects of environmental litigation, enforcement, regulatory appeals and permitting. These cases include cleanup disputes, cost recovery actions and related environmental insurance claims, as well as enforcement and permitting matters involving air, water, wetlands and endangered species. From cutting-edge issues involving emerging contaminants like PFAS and 1,4 dioxane at landfills and manufacturing facilities, to more common releases involving chlorinated solvents, oil and gasoline at dry cleaners and gasoline stations, our team has the knowledge, experience, network and contacts to navigate the evolving landscape of federal, state and local regulation of our environment.

If a conflict concerns real estate, chances are good that a member of our litigation team has had experience handling similar matters. In all land use disputes, we provide practical, creative and cost-effective solutions informed by the perspective that sophisticated trial experience provides.

800.922.8337

www.mirickoconnell.com

WORCESTER | WESTBOROUGH | BOSTON

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

Representative Matters**REAL ESTATE LITIGATION**

- Represented owners, developers and municipalities in a variety of zoning, wetlands, Chapter 40B and wireless communication tower cases.
- Obtained a dismissal of zoning-related claims for a commercial property owner concerning the non-conforming use of the property.
- Successfully prosecuted claims on behalf of a real estate investment company against an insurance carrier for failure to provide coverage and benefits under a commercial property policy.
- Represented a seller of real estate in obtaining an Appeals Court decision awarding our client damages for a buyer's failure to complete the purchase of commercial property.
- Successfully defended a large commercial tenant in lease claims related to the termination of the lease and building repairs.
- Successfully defended beneficiaries of a trust sued by a family member who sought ownership of trust real estate. Legal issues raised at trial included judicial estoppel, laches, the statute of frauds, the statute of wills, the canons of ethics, adverse possession and constructive trust.
- • Negotiated a resolution to a long-term dispute by forcing the sale of real estate through a petition to partition and by filing suit against an escrow agent.
- • Represented a land owner in Land Court and the Appeals Court in an adverse possession case in which our client obtained title to upland and tidal flats.
- Derailed an abutter's challenge to a special permit granted to a client for the construction and use of property as a continuing care retirement facility.
- • Represented a municipality before the Appeals Court, which upheld a zoning board's decision to deny modifications to a comprehensive permit under Chapter 40B for an affordable housing development.

ENVIRONMENTAL LITIGATION

- Obtained a judgment and award of attorney's fees after trial for a property owner under M.G.L. c. 21E (the Massachusetts Superfund statute), and successfully defended the judgment on appeal, against a municipality requiring it to conduct a multi-million dollar assessment and remediation of an historic landfill.
- Represented a municipality in the defense of a citizen suit claims alleging 1,4 dioxane contamination from a municipal landfill under the federal Clean Water Act, the Resource Conservation and Recovery Act, and state claims under M.G.L. c. 21E and various tort theories.
- Represented a customer of a barrel recycling facility in federal litigation under CERCLA involving a Rhode Island site contaminated with dioxin.
- Represented an international bank in a dispute involving TCE contamination of a distressed property briefly owned by our client after a foreclosure.
- Successfully obtained the rescission of our client's purchase of a 78-acre property based on the seller's failure to disclose known-PCB contamination.
- Represented a municipality in litigation and drafting regulations related to the potential siting of a soil reclamation facility.
- Obtained a multi-million dollar arbitration award and judgment for breach of contract and unfair business practices claim on behalf of a leading designer of pollution control systems for power plants.
- Represented a regional school committee in the defense of various constitutional and tort claims involving the alleged lead contamination of drinking water.
- Represented property owners, operators and municipalities in various wetland enforcement actions under the Massachusetts Wetlands Act and state and local wetlands regulations.
- Represented a Massachusetts municipality before the Massachusetts Supreme Judicial Court in a case of first impression regarding regulatory takings.
- Represented numerous clients in a variety of industries (including technology, manufacturing, automotive and construction) defending and resolving environmental compliance actions brought by State and federal regulators.