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Do You Have Available Sewer Service for your Development or Expansion? Are you Sure About That?

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Being able to dispose of wastewater is a key element in any development, redevelopment or expansion project. However, a process is underway in New Jersey that may remove properties from existing sewer service areas.

The New Jersey Water Quality Planning Act requires, among other things, that the New Jersey Department of Environmental Protection establish a planning process for wastewater management. NJDEP adopted the Water Quality Management Planning Rules, which were amended in 2008.

Counties are generally responsible for developing a Wastewater Management Plan which governs, in part, the distribution of sewer service within the County. Several counties (Bergen, Passaic, Union and Warren), however, have “opted out” and will not be issuing Wastewater Management Plans. In those cases, a regional utility authority or municipality establishes the plan for NJDEP approval.

Generally, the Wastewater Management Plan compares the available treatment capacity of existing wastewater treatment plants with expected demand from future development. If that analysis shows that there could be a shortage of wastewater treatment capacity based upon possible future development, then properties will need to be excluded from the applicable sewer service area to limit the future wastewater demand. Additionally, the NJDEP rules do not allow sewer service in areas identified by the NJDEP as “environmentally sensitive areas”. Environmentally sensitive areas include, for instance,

certain wetlands and threatened and endangered species habitat. If the NJDEP believes that your property includes environmentally sensitive areas, then it would be excluded from the future sewer service area.

The process of redrawing sewer service area maps is currently underway statewide, and many properties may be removed from sewer service areas. In redrawing these maps, the NJDEP may be using out-dated and unreliable data. For instance, the NJDEP computer mapping may show a wetland on your property, while on the ground there are no wetlands. Nevertheless, once the sewer service area maps are finalized, there will be a presumption that the NJDEP maps of environmentally sensitive areas are valid. It will therefore be very difficult to challenge the final sewer service area maps. A much better course of action is to challenge the draft sewer service area maps.

Finally, if you are excluded from a sewer service area, don't count on using a septic system to handle your wastewater – the NJDEP has tightened the standards applicable to septic systems too.

It is therefore critical to determine – right now – whether your property is being slated for removal from the sewer service area. Again, this should be done before the new maps go into effect, because it will be easier to correct the draft map than revise a final map.

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