

# Schenck Price

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July 27, 2023

Via email: [MHill@tomsrivertownship.com](mailto:MHill@tomsrivertownship.com)

Honorable Mayor Maurice B. Hill  
Township of Toms River  
33 Washington Street  
Toms River, NJ 08754

Re: Amendment to Township Ordinance Amendment 189-7(a) (“Ordinance”)

Dear Mayor Hill:

I am writing on behalf of Normandy Beach Associates, Inc. (NBA) to express my deep concern and disappointment regarding the recent passage of the Amendment to the Ordinance, which permits beachfront owners to cross the dunes owned by NBA. Despite the overwhelming opposition from our community, the Township proceeded with the amendment, which has raised serious apprehensions among the residents.

First and foremost, I would like to express our gratitude for allowing us, as concerned citizens and representatives of the NBA, to voice our opposition to this amendment. We value the democratic process and appreciate the opportunity to be heard.

It is vital to reiterate that the NBA, along with the wider community, will continue to challenge the basis of the court decision rendered by Judge Hodgson. The decision, which indicates that certain beach front owners have an appurtenant easement to cross the lands owned by NBA, has raised fundamental questions about property rights and land use in our beloved community which the NBA is vigorously challenging with its impending appeal. I wish to point out that NBA is an entity comprised of over 650 property owners in the Normandy Beach sections of Toms River Township and Brick Township with the majority of same owning in Toms River Township.

While we acknowledge the Township’s perspective on protecting private property ownership rights, we feel there may be some misunderstanding regarding the implications of the court’s appurtenant easement decision. The decision merely establishes the right of a beachfront owner who can demonstrate their rights under the trial court’s ruling to cross lands owned by NBA. However, it lacks detailed guidance on the appropriate manner in which such crossovers should be constructed.

Furthermore, in light of the concerns expressed during the meeting regarding the potential construction of dune crossover by non-experts, the NBA earnestly requests that the Township develop detailed guidelines supported by expert guidance and regulatory requirements. These guidelines should outline the appropriate

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construction methods, materials, and maintenance procedures to ensure minimal impact to the delicate coastal ecosystem.

Given that the NBA is the rightful owner of the underlying property where crossovers may be placed, we believe it is essential for the NBA to have say in the process of the issuance of permits for crossover constructions, including the notification of any pending permit. Judge Hodgson's decision did not address this aspect (other than saying consent by NBA was not required), and we believe it is crucial to recognize the property rights of the NBA in the decision-making process.

While we respect the Township's duty to protect private property ownership rights, we also expect that the Township will consider the opinions of experts, applicable regulations and, most importantly the NBA as the ultimate owner of the property being directly impacted by these crossovers. This consideration will ensure a well-balanced approach what addresses the concerns of both private property owners and preserves the integrity of the NBA's land.

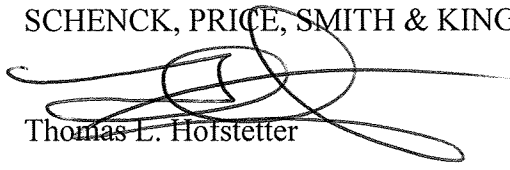
In light of the impending appeal, we urge the Township to take immediate action in developing these comprehensive guidelines for the construction of dune crossovers. We understand that several Normandy beachfront property owners are preparing to submit applications to the Township Engineer to obtain permits for constructing crossovers on NBA land. However, the absence of clear guidelines raises significant uncertainty and potential risks for the coastal environment and the interests of all parties involved.

Therefore, we urgently request the Township's commitment to undertake a careful and collaborative process in developing these guidelines, taking into account the perspectives of experts and the NBA. Such an approach will foster transparency, fairness, and the shared goal of protecting out valuable dune system while upholding the rights of all stakeholders involved.

Thank you once again for your attention to these pressing matters. We sincerely hope that the Township will heed our concerns and work with us to ensure a responsible and sustainable approach to the issue of dune crossovers.

Very truly yours,

SCHENCK, PRICE, SMITH & KING, LLP

  
Thomas L. Hofstetter

TLH:gi

cc: Councilman Kevin Geoghegan  
Councilman Matthew Lotano  
Councilman David Ciccozzi  
Councilman Josh Kopp  
Councilman Justin Lamb

Councilman Daniel Rodrick  
Councilman James Quinlisk  
Gregory P. McGuckin, Township Attorney  
Robert J. Chankalian, Township Engineer  
E. Stephen Kirby, President Normandy Beach Association, Inc.