

## Services & Industries

# Real Estate Litigation

## OVERVIEW

The trial lawyers in Day Pitney's Real Estate Litigation practice group have extensive experience representing individuals and companies of every form and size in their real estate-related disputes. The group provides clients with both a multijurisdictional resource and the local knowledge that is critical to successfully pursuing or defending real estate disputes. Members of this interdisciplinary group work directly with their colleagues in the firm's Energy and Utilities, Financial Services, Real Estate and Environmental, Tax, and Private Client groups to identify and address all material issues involved in real estate disputes.

Our real estate litigation experience runs the gamut from administrative matters to hearings before local boards and agencies, trials before state and federal courts, and appeals. The group includes highly experienced trial attorneys and appellate advocates, with established track records of success in substantial matters for large privately owned corporations, Fortune 500 and 100 companies, developers, entrepreneurs, utilities, telecommunications carriers, municipal and public entities, and individuals.

Consistent with Day Pitney's client-focused approach, we partner with our clients in learning their business to maximize results consistent with their business objectives. Our experience allows us to think creatively in connection with settlements and in alternative dispute resolution settings.

Typical matters include:

- Representation of developers who either experienced a denial of their zoning application, or who received an approval of the zoning application only to have the approval challenged by an objector
- Representation of developers in affordable housing litigation, such as builders' remedy suits, intervention in municipal declaratory judgment actions and similar proceedings
- Sale of real property, including contract disputes, breach of contract, and consumer fraud and fraud in connection with sales
- Commercial lease disputes, including retail, office and ground leases, as well as commercial eviction and summary dispossession and ejectment actions

- Construction disputes and disputes involving construction contracts
- Land use and zoning disputes and appeals, including challenges to zoning ordinances and application denials under state law, as well as the Civil Rights Act of 1964 and similar state civil rights statutes, with particular experience with regard to telecommunications facilities under the Telecommunications Act of 1996 and denials of applications of religious organizations under the Religious Land Use and Institutionalized Persons Act (RLUIPA)
- Title disputes, including quiet title, deed restrictions, easement disputes and encroachments, adverse possession, and deed defects
- Disputes centered upon the use or occupancy of real property, typically sounding in nuisance, ejectment and other similar causes of action
- Public and private beach access rights claims
- Condemnation, eminent domain, and prerogative writ and mandamus actions
- Real property assessment appeals and contests, and tax foreclosures
- Property tax exemptions and appeals
- Riparian rights and deeds, and farmland assessments and rollbacks
- Disputes regarding the valuation of real property and/or real property interests
- Utility easements, rights of way and property nuisance claims

## **EXPERIENCE**

- Filed a challenge to a rezoning for a Fortune 100 corporation on a 200-acre parcel, and obtained a reversal of the rezoning after a trial, preserving value in the property in the tens of millions of dollars
- Successfully defended a Fortune 100 corporation in connection with a dispute involving a gas pipeline easement, and obtained a no-cause verdict after a lengthy trial, saving the client millions of dollars in alleged damages
- Successfully defended at trial tax assessments in excess of \$10 million on a private golf course on behalf of a large municipality
- Defended a Fortune 100 company in connection with a sewer utility dispute in which recapture of sewer capacity was sought and the value of the investment in the capacity was in excess of \$5 million

- Engineered a complex settlement of a real property tax assessment appeal on behalf of a Fortune 500 company in connection with a corporate headquarters, in which the assessment was reduced from \$114 million to \$85 million, and involved a rezoning of property, donations of land and the dedication of reciprocal easements
- Obtained a settlement on behalf of a large multinational corporation, reducing its real property tax assessment on a corporate headquarters site from \$90 million to \$55 million
- Successfully defended on appeal a trial court judgment in favor of a major Connecticut water company, involving alleged adverse possession rights over water company lands
- Successfully defended a lease dispute, which also involved a claim of breach of sale of business contract, in federal court and obtained a no-cause verdict after a lengthy jury trial
- Resolved for a large multinational corporation, before institution of suit, a construction dispute involving a significant construction defect on a newly constructed corporate complex, saving the client millions of dollars in repair costs and millions of dollars in legal fees
- Defended a title dispute on behalf of a national title insurer, resulting in a favorable settlement before trial
- Successfully defended an adverse possession claim after a jury trial, resulting in a favorable outcome for the client
- Successfully settled a lease dispute brought in federal court on behalf of a multinational theater chain involving complex issues relating to common area rent and compensation due the client by virtue of an eminent domain proceeding
- Successfully defended numerous challenges to land use approvals, as well as successfully challenged numerous denials of land use approvals, for wireless telecommunications facilities
- Prevailed on summary judgment in connection with deed restrictive covenant claims on behalf of a water utility
- Assumed representation of nearly two-decade long dispute involving private beach access rights and successfully managed its ultimate settlement
- Obtained summary judgment in private beach access dispute relating to alleged implied and prescriptive easement dating back to late 1880s

## **INSIGHTS**

**"State of Real Estate Transactions in Today's Economy with Day Pitney," HNBA Corporate Counsel Division**

August 16, 2023

On August 16, Day Pitney Partners Daniel Diaz Leyva, Marie Bertrand and Manuel Garcia-Linares will be speaking at the Hispanic National Bar Association's Corporate Counsel Division's "State of Real Estate Transactions in Today's Economy with Day Pitney," virtual event.

### **Another Win for Dogs: Court Allows Emotional Support Dog Violating Association Pet Policy**

March 29, 2023

*Day Pitney Alert*

### **"ESG – From Voluntary to Regulatory: How the ESG Landscape Is Evolving and What it Means for Your Company," Association of Corporate Counsel**

March 16, 2023

On March 16, Day Pitney Partners Kirstin Etela (Environmental and Land Use), Erik Bergman (Investment Management) and John Vukelj (Litigation) are presenting with Mastercard at an Association of Corporate Counsel's Westchester and Southern CT Chapter event titled, "ESG – From Voluntary to Regulatory: How the ESG Landscape Is Evolving and What it Means for Your Company."

### **"Real Estate Round Table," Day Pitney**

February 8, 2023

On February 8, Day Pitney New Jersey Real Estate Partners hosted a Real Estate Round Table for real estate developers and professionals to speak candidly about their thoughts, ideas and concerns in the industry for 2023 and beyond.

### **Appellate Division Affirms Dismissal of Inverse Condemnation on Private Beach Claim**

February 1, 2023

*Day Pitney Advisory*

## **NEWS**

### **Day Pitney Names Real Estate, Environmental Co-Chairs in NJ**

April 10, 2023

Day Pitney New Jersey Partners Katharine Coffey and Craig Gianetti's appointment to co-chair of the Real Estate and Environmental practice was featured in *Law360* article, "Day Pitney Names Real Estate, Environmental Co-Chairs in NJ."

### **Coffey, Gianetti Named Co-Chairs of Day Pitney Real Estate and Environmental Group**

April 5, 2023

Day Pitney New Jersey Partners Katharine Coffey and Craig Gianetti's appointment to co-chair of the

Real Estate and Environmental practice was featured in *Real Estate NJ* article, "Coffey, Gianetti Named Co-Chairs of Day Pitney Real Estate and Environmental Group."

### **Day Pitney Names New Co-Chairs of Real Estate and Environmental Practice**

April 4, 2023

*Day Pitney Press Release*

### **Day Pitney Receives Top Rankings in U.S News & World Report's – Best Lawyers "Best Law Firms"**

November 3, 2022

*Day Pitney Press Release*

### **Professional Spotlight 2022: Top Law Firms in New Jersey Commercial Real Estate**

March 22, 2022

Day Pitney was included in *Real Estate NJ's* "Professional Spotlight 2022: Top Law Firms in New Jersey Commercial Real Estate."

## **CONTACTS**



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