

Service

Real Estate and Environmental Litigation

Deep Understanding of Your Unique Challenges

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

Experience Matters

We have successfully resolved cases on behalf of developers, contractors, buyers, sellers, landlords, commercial tenants, municipalities, and utilities.

At Mirick, we have extensive experience routinely helping clients resolve zoning and subdivision disputes and appeals before local permitting boards, the Housing Appeals Committee for affordable housing projects under Chapter 40B, and in court; disputes arising out of the purchase and sale of real estate, including claims for breach of contract, misrepresentation, and unpaid commissions; and title, adverse possession, boundary disputes, title insurance, tax abatement and eminent domain matters.

Representing You in All Aspects of Environmental Litigation

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:

CHAIR

David McCay

Partner

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Related People

Moriah L. Cummings

Patricia L. Davidson

Paul C. Foley

Robert B. Gibbons

Joseph M. Hamilton

Peter J. Hamilton, II

Danielle M. Butler (Kemp)

Andrew T. Lechner

David K. McCay

Amanda C. McNamara

John O. Mirick

William J. Morrissey

Related Services

Commercial Litigation

Construction Litigation

Litigation

Real Estate and Environmental Law

Related Industries

Banking & Finance

Cannabis

- Cleanup disputes
- Cost recovery actions and related environmental insurance claims
- 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.

Experience:

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.

Commercial Real Estate
Construction
Education
Government & Municipalities
Healthcare
Manufacturing

- 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 a historic landfill.
- Successfully represented the municipal owner of the then-largest solid waste landfill in Massachusetts in federal and state groundwater contamination claims involving 1-4 dioxane and other contaminants. The claims were brought by two non-profit environmental groups and over 30 families under the federal Clean Water Act, the Resource Conservation & Recovery Act and Massachusetts General Laws, Chapter 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.