

## **APPELLATE COURT THROWS OUT RECREATION AND OPEN SPACE FEES**

The Shore Builders Association of Central New Jersey and Builders League of South Jersey have won final victory in their case challenging municipal recreation and open space fees. The Supreme Court affirmed the June 23, 2008 decision of the Appellate Division of Superior Court ruling that municipalities lack authority to require developers to set aside land for common open space or recreational areas and facilities, other than in “planned development” as defined in the Municipal Land Use Law. The Court also ruled that municipalities may not require developers to pay fees in lieu of the set-aside in any development, including “planned development”.

The decision in the New Jersey Shore Builders Association v Jackson Township involved challenges to open space and recreation fee ordinances in Jackson and Egg Harbor Townships, but the Court’s decision has statewide applicability. “This precedent applies statewide except in the Pinelands. We are delighted that the Supreme Court has agreed that these types of ordinances are unlawful. This decision will help homebuilders provide reasonably-priced housing to the citizens of New Jersey,” said Paul H. Schneider, Esq. of Giordano, Halleran & Ciesla, P.C., attorney for Shore Builders Association of Central New Jersey.

Paul H. Schneider  
Giordano, Halleran & Ciesla, P.C.  
PO Box 190  
Middletown, NJ 07748  
Hand Delivery & Overnight Services Address  
125 Half Mile Road, Suite 300  
Red Bank, NJ 07701  
Phone: 732-741-3900  
Direct Dial: 732-219-5487