

## Home Improvement Contractors To Wear State-Issued ID Badges

Because of fears of potential scams arising from last year's Sandy Storm, a new law (P.L. 2013, c.144) to take effect on August 19, 2014, will require home improvement contractors registered under the "Contractors' Registration Act" to have in their possession a state issued identification badge whenever they are performing, engaging or attempting to engage in the business of making or selling home improvements.

The badge will include a color photograph of the contractor's face, the contractor's name, registration number and business. The badge will include a statement that it is not for an electrical contractor, plumbing contractor or HVACR Contractor license. A contractor will be required to renew their identification badge at least once every six years.

New Jersey's Assembly passed the bill May 20 by a 73-4 vote and the Senate passed it on June 20 by a 39-1 vote. Governor Christie signed it into law on August 19, 2013 without issuing any comment related to his decision to sign the bill.

Senate president Steve Sweeney, a Democrat from southern New Jersey, said in a March 18th statement regarding his support of the bill that he was motivated in part by Hurricane Sandy. "As we continue to recover from the aftermath of Sandy, New Jerseyans must be on the look out for those who would look to take advantage of the situation for their own personal benefit," Sweeney said then. "By requiring a picture I.D., we are

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"It is well to remember that the entire population of the universe, with one trifling exception, is composed of others. "

- John Andrew Holmes

"I was born modest; not all over, but in spots. "

- Mark Twain



# the Advocate

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## News Briefs

**Reported by NJ.com** - "When [NJ State Supreme Court] Justice Helen Hoens stepped down last week, it created a third vacancy on the seven-member high court. "

**Reported by NJ Law Journal** - "According to Kroll's "Global Fraud Report," corporate corruption increased over the past year, after taking a dip in 2012. The annual study found that 70 per cent of responding companies were affected by fraud in the past 12 months, up from 61 per cent the previous year. And there was an increase in every category of fraud covered by the study. 901 senior executives took part in the survey."

## Land Owner's Rights When Building Permits Are Issued in Error

What happens when a building inspector, in good faith, but with mistaken judgment, issues a permit in violation of the building code? Can the developer, who relied in good faith on the permit, block the municipality from enforcing the building code? This article (the first in a series) examines these questions.

New Jersey's Supreme Court, in Summer Cottagers' Association v. Cape May, 19 N.J. 493 (1955), examined the principles of estoppel and laches asserted against a public entity in the context of a case involving sale of public lands. In Summer Cottagers' Association, the Plaintiffs (consisting of a nonprofit corporation organized for civic improvement of the Cape May community and 51 local taxpayers) challenged the validity of the sale of eight lots of land in the City of Cape May by the local governing body to the Defendants/Purchasers based upon failure to comply with *R.S. 40:60-26*. The Plaintiffs' contention was that (a) the "public were not given proper notice of the sale," and (b) the conditions of sale "combined with the circumstances surrounding it were such as to prevent a

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## NJ Home Improvement Contractors

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adding another layer of protection for storm victims against fraud." Sweeney also noted that New Jersey's Division of Consumer Affairs received 1,200 new applications to be registered as contractors after Sandy including many out-of-state applicants. "In the aftermath of Sandy, New Jersey residents are even more vulnerable to unscrupulous, fly-by-night contractors who take advantage of residents in need of immediate home repairs," he said.

Among its provisions, the new law provides that any person who knowingly exhibits or displays an identification badge and is not at that time registered as a contractor, including any contractor who has had his or her registration revoked, suspended, or not renewed, is guilty of a crime of the fourth degree.

This new law supplements the "Contractors' Registration Act" N.J.S.A.56:8-136 et seq. The "Contractors' Registration Act" (the "Act") establishes a mandatory registration program for contractors who are in the business of selling or making home improvements in New Jersey. This new measure is in addition to the already existing requirements of the Act requiring contractors to prominently display their registration numbers within their places of business, in all advertisements, on business cards, on their commercial vehicles and on all business documents, including contracts and correspondence with consumers.

Any remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of a structure used as a place of residence, or of any portion of the property on which the structure is located, is considered a home improvement for the purposes of the Act. Home improvement includes any changes, repairs, or improvements made to residential property for example: driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, fire protection devices, security protection devices, central heating and air conditioning equipment, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other. Construction of a new residence is not considered a home improvement under the Act.

## Building Permits Issued in Error

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public sale of the lands to the highest bidder," in violation of R.S. 40:60-26, rendering the sale void and therefore Plaintiffs' contended that the Defendants' reliance upon the doctrine of laches and estoppel had no merit.

The trial court entered judgment for Defendants in the Law Division of the Superior Court holding that the Plaintiffs were estopped from asserting violation of R.S. 40:60-26 and refusing to declare the sale void, 34 *N.J. Super. 67 (1954)*; and an appeal to the Appellate Division taken by the corporate Plaintiff and 44 of the 51 individual Plaintiffs was moved to the New Jersey Supreme Court for decision by certification on the Supreme Court's own motion. The Supreme Court in *Summer Cottagers' Association*, stated: "The principle of estoppel *in pais* is not ... given the same freedom of application against the public as against private persons. Municipalities, for example, are agencies of government for local administration with enumerated powers, and deviations from the legislative grant must needs have the legal consequences comporting with the declared legislative intention and policy. The essential principle of the policy of estoppel here invoked is that one may, by voluntary conduct, be precluded from taking a course of action that would work injustice and wrong to one who with good reason and in good faith has relied upon such conduct. ... The repudiation of one's act done or position assumed is not permissible where that course would work injustice to another who, having the right to do so, has relied thereon. *New Jersey Suburban Water Co. v. Harrison*, 122 *N.J.L. 189 (E. & A. 1939)*... There is a distinction between an act utterly beyond the jurisdiction of a municipal corporation and the irregular exercise of a basic power under the legislative grant in matters not in themselves jurisdictional. The former are *ultra vires* in the primary sense and void; the latter, *ultra vires* only in a secondary sense which does not preclude ratification or the application of the doctrine of estoppel in the interest of equity and essential justice. ... But there cannot be such relaxation of the conditions laid down in the grant of the power as to defeat the public policy intended to be served." *Id.* at 503 - 505.

In reaching its decision, the Supreme Court in *Summer Cottagers' Association* noted that "the power of sale was within the municipality's essential jurisdiction." *Id.* at 506. Thus, under the particular circumstances presented, the Court held there to be "... a preclusion in equity and elemental justice against the relief demanded by plaintiffs."

... To Be Continued in Our Next Issue