

From: Frank Rush

Subject: Request for Amicus Brief - NC Supreme Court - Nies v Town of Emerald Isle - Must be Submitted by June 22

Fellow Oceanfront Municipal and County Managers -

The Town of Emerald Isle is seeking your assistance on a critical issue that could impact every coastal resident and every visitor to North Carolina's beaches in the future. Specifically, we are seeking an amicus brief from your organization to support the Town of Emerald Isle's position on a case to be heard by the NC Supreme Court later this summer / fall to insure that the ocean beaches in North Carolina remain open to the general public.

The Town is engaged in a case before the NC Supreme Court that will likely determine the public's future right to access, use, and enjoy the "dry sand" beach everywhere in North Carolina. At issue is the specific delineation of the "public trust beach area", and whether or not it includes only the area between mean high water and mean low water (the "wet sand" beach covered by high tides) OR if it continues to include the entire "dry sand" beach between the base of the dunes and the water (as has been historically used by the people of North Carolina since colonial days). If the historical delineation is not upheld, it could potentially allow oceanfront property owners to exclude others from the "dry sand" beach in front of their homes, which could have disastrous impacts on the oceanfront tourism economy and the enjoyment of recreational activities on our beaches (swimming, sunbathing, fishing, driving, playing, walking, etc.).

The Town prevailed in Carteret County Superior Court and at the NC Court of Appeals (unanimous vote; ruling attached). The Court of Appeals ruling is a clear endorsement of the historical practice of the Town of Emerald Isle and all counties and municipalities on the NC coast, and we are optimistic that the NC Supreme Court will affirm the NC Court of Appeals ruling. To strengthen our case, we are seeking amicus briefs from several interested parties, and are hopeful that your organization will lend its support with an amicus brief.

Please feel free to reach out to me or Brian Edes, our attorney for this case (copied on email; phone # is 910-762-9711), if you and/or your attorney need assistance or additional information. Please note that the amicus brief must be submitted by June 22.

Thank you,

Frank

Frank A. Rush, Jr.
Town Manager
Town of Emerald Isle
7500 Emerald Drive
Emerald Isle, NC 28594

252-354-3424 Office
252-241-6995 Mobile
252-354-5068 Fax