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## Estate Planning Seminar

Valerie L. Howe, Esq. will be presenting an Estate Planning Seminar addressing various aspects of trusts and estates law and how the latest tax law changes may affect your estate planning. The free seminar will be held on Wednesday, November 6, at 6:30 pm at the Nassau Club in Princeton and is open to the public. Valerie L. Howe has a Masters Degree in Tax Law and is a senior member of the firm's Estates & Trusts Practice Group. Please call 609-436-1205 to register.



Valerie L. Howe, Esquire,  
Co-Coordinator of the  
Estates & Trusts Practice  
Group at Mason, Griffin  
& Pierson

## Litigation Practice Group

MG&P has a very talented group of experienced attorneys handling personal injury matters for our clients. Some of our recent successes. . .

- \$1,250,000 recovery in Hunterdon County for a client who lost an eye in a bungee cord accident
- \$330,000 settlement for the family of an elderly client killed by a construction backhoe
- \$65,000 recovery for a young lady with facial injuries from an automobile accident
- \$1,000,000 judgment awarded to a client whose mother was murdered
- \$120,000 settlement for a woman injured in a slip and fall accident



# Counsellor

*Timely News and Information from Mason, Griffin & Pierson, P.C.*

## THE NEW JERSEY LANDOWNER LIABILITY ACT

by Trishka Waterbury, Esq.

New Jersey is one of the most densely populated states in a nation in which undeveloped land available for hiking or other recreational activities is becoming increasingly scarce. Out of fear of liability, property owners may be reluctant to grant access to their land or give conservation easements for recreational activities. These property owners would do well to explore the protections offered by the New Jersey Landowner Liability Act, N.J.S.A. 2A:42A-2 et seq.

The purpose of the Act is to induce landowners (or lessees/occupants) to make their properties available for sport or recreational activities by limiting the liability they would otherwise face under the common law. "Sport and recreational activities" is defined to include all outdoor sports, games and recreational activities, including practice and instruction in any thereof. The Act provides that an owner (or lessee/occupant) of premises owes no duty to keep the premises safe for entry or use by others for sport and recreational activities, or to warn

persons entering for such purposes of hazardous conditions of the land. The Act also provides that an owner (or lessee/occupant) of premises who gives permission to another to enter upon such premises for a sport or recreational activity does not thereby (1) extend any assurance that the premises are safe for such purpose; (2) change the person's status to that of an "invitee" (to whom a duty of care is owed); or (3) assume responsibility or incur liability for any injury to person or property caused by any act of such a person.

These limitations on liability apply to public and private entities alike. The Act's limitations on liability also apply, in varying degrees, to the following: (1) farmers who grant permission to horseback ride, operate a snowmobile, bike, or an all terrain vehicle on their properties; (2) the owners (or lessees/occupants) of premises upon which public access has been required as a condition of a regulatory approval of, or by agreement with, the Department of

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## Mason, Griffin & Pierson Milestones

Mason, Griffin & Pierson has been Counsel to Princeton Township for fifty years. During these five decades, the firm has played an integral part in this growing municipality. Left to Right: Gordon D. Griffin, Princeton Township Attorney from 1952 to 1980; Phyllis Marchand, Princeton Township Mayor from 1994 to 1995, and from 1998 to present; and Edwin W. Schmierer, Princeton Township Attorney from 1980 to present.

# THE NJ LANDOWNER LIABILITY ACT

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Environmental Protection; and (3) the owners (or lessees/occupants) of premises on which a conservation restriction is held by the State, a local unit (for example, a municipality), a charitable conservancy, or premises upon which public access is allowed pursuant to a public pathway or trail easement held by one of these entities.

The Act does not, however, limit liability in the following circumstances: (1) willful or malicious failure to guard or warn against a dangerous condition or activity; (2) injury suffered where permission to engage in recreational activities was granted for a consideration (other than a consideration paid to the landowner by the State); or (3) injury caused by someone engaged in recreational activity to someone who is on the property for the landowner's personal affairs.

Historically, the courts have held that the Act only applies to rural or semi-rural lands. However, one section of the Act now defines "premises" to include lands located in urban and suburban areas. This definition raises a question as to whether "premises" will be interpreted more broadly in the future by the courts.

Landowners considering granting access to their properties for recreational use or considering selling conservation easements to a local government or nonprofit organization would be prudent to consult with an attorney first to review the Act's provisions in detail. Nevertheless, such landowners should be aware that the Legislature has created special immunities to encourage them to



make their properties available for recreational activities for the benefit and enjoyment of others.

*Trishka Waterbury, Esq. is an associate at Mason, Griffin & Pierson, P.C. She is a graduate of Bowdoin College and received her law degree from Boston University School of Law (cum laude). Ms. Waterbury served as Law Clerk to the Honorable Philip S. Carchman, Superior Court of New Jersey, from 1996 to 1997. She is a member of the Mercer County and New Jersey State Bar Associations, and a trustee of the New Jersey Institute of Municipal Attorneys. She practices in the areas of Local Government Law, Zoning, Planning & Land Use Law, and Appellate Practice. Ms. Waterbury can be reached on her direct phone line at 609-436-1211.*

## Edwin Schmierer with Mason, Griffin & Pierson for 25 Years

Edwin W. Schmierer, Esq., a director with Mason, Griffin & Pierson, P.C. has been practicing law with the firm for twenty-five years. Mr. Schmierer earned his law degree from Boston College and is Counsel to Princeton Township, Pennington Borough Planning Board, East Windsor Municipal Utilities Authority, and West Windsor Township Zoning Board of Adjustment. He is Assistant Counsel for New Jersey State League of Municipalities, in addition to his memberships in the New Jersey Institute of Municipal Attorneys, New Jersey Planning Officials, New Jersey State League of Municipalities, and Mercer County and New Jersey State Bar Associations.

Mr. Schmierer practices in the areas of Local Government Law, Land Use Law, Real Estate Law, and Affordable Housing Compliance. Mr. Schmierer can be reached on his direct phone line at 609-436-1200.



## Practice Groups

**Bankruptcy • Business & Banking • Criminal Law • Employment Law • Estates & Trusts  
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