

2017 Legal Division Annual Report

The Legal Division consists of four major components: The Office of Counsel including the Legal Services Unit, the Jurisdictional Inquiry Unit, and the Enforcement Unit. The Counsel and Associate Counsel advise all Agency divisions and the Agency Board. Legal Division attorneys review significant permitting, planning, enforcement, and other documents, assist the Attorney General with litigation, manage adjudicatory hearings, and provide other legal services as necessary.

The Jurisdictional Inquiry Unit provides advice to landowners and potential project sponsors regarding Agency jurisdiction, including informal phone advice and written jurisdictional determinations.

The Enforcement Unit works to resolve violations of the laws administered by the Agency.

Office of Counsel and Legal Services

Key Legal Division accomplishments for 2017 included a New York State Supreme Court decision dismissing a challenge to the Agency's jurisdiction over shoreline structures proposed for a marina development. A State Supreme Court also rejected constitutional challenges to the construction of snowmobile trails on state land. In addition, the Agency adopted an update to its Freedom of Information Law Regulations.

Legal staff updated Agency public information flyers and continued to streamline internal legal review and guidance for non-legal staff and the public. Staff also reviewed major permits prior to issuance, provided legal advice on jurisdictional inquiries, helped resolve enforcement matters, and provided guidance to the planning division on the classification of State lands and amendments to the Adirondack Park State Master Plan.

Jurisdictional Inquiry Unit

The public's first point of contact with the Agency is often a letter or a phone call handled by the Jurisdictional Inquiry Unit. Staff within this unit provide advice to landowners and others regarding Agency jurisdiction to determine if an Agency permit or variance is required for proposed land use and development or the subdivision of land within the Park. These determinations often require additional legal and factual research including ownership history. Because this interaction is the Agency's initial and most common point of contact with the public, a high priority is placed on prompt responses. The Jurisdictional Inquiry Unit also handles referrals from other agencies, telephone calls and walk-in members of the public. The Jurisdictional Unit includes the Agency's Records Access Officer.

In 2017 the Agency received a total of 833 jurisdictional inquiry forms (JIFs). The following table summarizes the Jurisdictional Inquiry Unit responses:

JIFs Received	833
JIFs Responded To	842
Non-Jurisdictional	603
Jurisdictional	150
Requiring a Variance	38
General Information	27
Potential Violations	24
Average Response Time (in days)	13

Telephone Calls	3904
Walk-Ins	139
Write Ins/Site Visits	27
Referrals from other Agencies	432
FOIL Requests Received	207

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	2017 TOTAL	2016 TOTAL
JIFs RECEIVED	51	58	89	78	74	94	78	68	73	80	52	38	833	896
JIFs RESPONDED TO	49	52	72	69	110	72	83	72	61	88	73	41	842	903
Non-Jurisdictional	33	31	49	53	80	51	70	57	45	63	47	24	603	647
Jurisdictional	12	16	18	11	22	14	8	7	7	15	12	8	150	174
Variance	1	4	4	3	4	2	0	4	5	2	5	4	38	39
General Information	2	0	0	1	2	2	2	1	2	3	7	5	27	25
Potential Violation	1	1	1	1	2	3	3	3	2	5	2	0	24	18
AVERAGE RESPONSE TIME (in days)	10	11	11	15	15	12	14	13	17	13	11	15	13	17

TELEPHONE CALLS	261	229	371	284	437	368	381	398	400	386	243	146	3904	4149
WALK-INS	7	4	10	14	14	16	15	21	13	13	7	5	139	180
WRITE INS/SITE VISITS	1	3	0	4	4	4	0	3	2	4	2	0	27	30
OTHER AGENCIES	31	28	37	39	28	52	33	29	58	34	30	33	432	493
FOIL REQUESTS	26	13	25	11	18	14	21	21	12	19	15	12	207	183

ENFORCEMENT PROGRAM

Enforcement staff continue to work to resolve alleged violations in a manner that avoids adverse impacts to resources and is consistent with the statutes implemented by the Agency.

The Enforcement Program began 2017 with 141 unresolved cases. 211 cases were resolved during the year and 238 cases were opened. Staff conducted 173 enforcement site visits, prepared 83 settlement agreements, and executed 50 settlement agreements with landowners. 33 cases were resolved through voluntary compliance on the part of the landowner and 112 cases were closed following investigations indicating that no violation had occurred.

For the past ten years, enforcement staff have been monitoring new subdivision activity in the Park through the New York State Office of Real Property SalesWeb application. In 2017, this effort found that 62% of the 116 subdivisions undertaken in 2017 were issued an Agency jurisdictional determination or permit. Three enforcement cases were opened as a result of SalesWeb monitoring, and of these cases, one remains under review and two cases were found to be no violation following investigation.

Enforcement staff cross-divisional work in 2017 included 56 jurisdictional determinations issued from enforcement staff, 81 site visits for review of permit applications, and 56 permits issued with enforcement staff as the assigned project review officer.

Activity	2015	2016	2017
New Cases Opened	213	208	238
Enforcement Site Visits	182	180	173
Settlement Agreements Sent	115	97	83
Settlement Agreements Signed	63	58	50
Cases Closed Voluntary Compliance	41	41	33
Cases Closed No Violation	86	103	112
Open Cases End of Year	152	141	168

A compilation of the year's activity is provided below:

Types of Alleged Violations	2017 Total
Substandard Lot Subdivision	6
Lot Counting Subdivision	18
Resource Management Subdivision	8
Subdivision in a CEA	6
Wetland Subdivision	13
Wetland Project	50
Rivers Project	4
Permit Violation	23

Development in a CEA	5
25 acre clearcut	5
Commercial Use	10
Junkyard	10
Campground	1
Shoreline Setback	33
Shoreline Cutting	15
Waste Disposal Area	9
Septic Setback	2
Commercial Sand and Gravel Extraction	3
Multiple Family Dwelling	1
Tourist Accommodation	5
25% Expansion of Existing Use	3
Dwelling in Resource Management	4
Shoreline Lot Width	1
Rivers Area Cutting	1
Watershed Management Project	1
Cases Opened in 2017	238