



LEGAL ACTION GUIDELINES AND PROCEDURES

The Legal Action Committee (“**Committee**”) of the NAIOP NEW JERSEY CHAPTER (“**Chapter**”) of NAIOP exists pursuant to the By-Laws of the Chapter to serve as legal counsel to the Board of Trustees (“**Board**”), Executive Committee, Officers and Chief Executive Officer of the Chapter in evaluating requests for the Chapter’s participation in or support of Legal Action (as defined below) and otherwise to provide advice and counsel to the Board relating to Legal Actions in which the Chapter is a party or for which the Chapter provides financial or other support.

These guidelines and procedures (as same may be amended from time to time, “**Guidelines**”) set forth the criteria by which the Chapter will determine whether to pursue or support Legal Action with respect to any specific issue or case. "Legal Action" includes, without limitation, commencing or joining a legal action or proceeding, including a lawsuit at the trial or any appellate level, an administrative proceeding, a mediation or an arbitration, in each case whether directly as a party, as *amicus curiae* or as an intervener in an on-going action or otherwise in accordance with law and the NJ Court Rules, and/or by providing financial or legal resources to a third party involved in one or more of the foregoing proceedings.

The Chapter shall have no obligation to become involved in or to support any Legal Action and the decision whether to do so, or whether to end such participation or support, shall be in the sole, exclusive and unreviewable discretion of the Board. The Chapter shall have no

liability to any member of the Chapter, or to any other party requesting the Chapter to participate in or provide support for a Legal Action by reason of the refusal to consider or to act favorably on any such request for the Chapter's participation in or support of a Legal Action, the termination of such participation/support or the manner in which the Chapter participates or provides support, including, without limitation, strategy, conduct or settlement of same, or the outcome of any Legal Action.

A. NATURE OF LEGAL ACTIONS TO BE PURSUED.

No Legal Action will be undertaken by the Chapter unless the involvement of the Chapter will promote the best interests of the commercial real estate industry and the business interests of the members of the Chapter with regard to issues that (1) are specific and substantive (rather than procedural); (2) substantially impact or have the potential to substantially impact the commercial real estate industry as a whole, either state-wide or industry-wide; and (3) are of such a nature that the costs of undertaking such Legal Action are not disproportionate to the benefits likely to be enjoyed by the Chapter's membership as a result of a favorable outcome in the Legal Action.

B. DETERMINATION OF SUITABILITY

Whether any particular Legal Action meets the criteria of the Guidelines will, in the first instance, be considered by the Committee, which shall act by the vote of a majority of its members meeting in person, by telephone conference or by electronic communication. The Committee will make its recommendation in accordance with the Guidelines to the Board. The Board will have the ultimate responsibility and the final, sole and unreviewable discretion to approve or decline to approve participation in or support of any Legal Action on the part of the Chapter.

C. IDENTIFICATION OF SPECIFIC ISSUES

Requests for Chapter participation in or support of Legal Action may be initially requested by NAIOP officers or staff, Chapter committees, including, without limitation, the Regulatory Affairs Committee and Legislative Committee, Chapter members or outside sources. These sources may identify circumstances or on-going cases that present issues of significant concern for the commercial real estate industry in New Jersey. In addition, the Committee or members thereof may identify potential Legal Action for consideration under the Guidelines.

D. PROCEDURE

Any request (other than requests from Chapter officers, staff or committees) to the Chapter for participation in or support of a Legal Action shall be submitted to the Chief Executive Officer in the form outlined on the checklist attached as Appendix A (“**Checklist**”). The Chief Executive Officer, or a staff member at his/her direction, will review the submission for completeness, request missing items from the person making the request, and upon a determination of substantial completeness, will provide the request and Checklist and supporting materials to the Committee for consideration.

The Committee may communicate with the person or representatives of the person making the request to obtain additional information or documentation to assist the Committee in its consideration, and may meet with such persons or other individuals, and otherwise take steps to obtain information deemed necessary or appropriate to evaluate a proposal.

The Committee shall prepare a confidential report with respect to every request for Legal Action that comes before it which report shall be for the sole and exclusive use and consideration

of the Board in evaluating whether to participate in or provide support for a Legal Action. Such report shall be treated as an attorney-client privileged communication and contain the recommendation of the Committee whether or not to participate in or provide support for the Legal Action, an explanation of the reasons for such recommendation, and the information relied upon in reaching its recommendation. In the event of an affirmative recommendation to participate in or support a Legal Action, the Committee shall provide in its report a description of the nature of the involvement recommended, the estimated cost (or a formula upon which such cost may be estimated), possible outcomes and/or results, suggested counsel and the Committee's collective opinion regarding the probability of success and may also set forth a statement of any potential adverse consequences of participation in or support of such Legal Action. The Committee shall also consider the necessity or desirability of recommending conditions on the Chapter's participation in or support of a Legal Action, including, without limitation, requiring a joint defense agreement between or among the parties to the Legal Action, limiting the role of the Chapter's participation or support and requiring that the Legal Action not be terminated or settled without the approval of the Board.

If the Board in its discretion determines that the Chapter shall participate in or support the Legal Action, the Board will establish a budget for such Legal Action and designate a source of funding there for. Funds allocated to such Legal Action shall be used only for attorneys, experts and other professionals or consultants to be retained by or on behalf of the Chapter. If the Board determines to support a member (or other person) in funding Legal Action, the scope and extent of such funding and the delineation of the specific items to be funded (i.e., attorney fees, experts, etc.) shall be as approved by the Board on a case-by-case basis. If requested by the Board, the Committee shall monitor the progress of any Legal Action undertaken by the Chapter and report

to and advise the Board from time to time as appropriate with regard to the status of such Legal Action, any developments therein and the conduct thereof.

In the event that circumstances exist or arise such that emergent action is necessary or otherwise do not reasonably permit the procedures outlined in the Guidelines to be followed in such case, the Chief Executive Officer, in his/her discretion, may forward a request for Legal Action to the Committee that is incomplete with respect to any or all of the Checklist items and/or information, and the Committee will meet upon the shortest period of prior notice as may be necessary to convene at least a majority of the Committee (without jeopardizing the interests of the Chapter or the membership by such delay), in person, by telephone or otherwise, to review such emergent request. If a majority of the Committee cannot meet within the time period necessary to protect the interests of the Chapter or the membership, or the matter is so emergent or the deadline for action (filing deadline, intervention deadline, etc.) is imminent such that the Committee or a majority thereof cannot meet (in person, via telephone or other means), then the Board alone may decide whether to commence Legal Action upon consultation with such members of the Committee as may be timely available.