

OPINIONS OF THE ATTORNEY GENERAL

The full text of an informal or formal opinion of the Attorney General may be obtained by writing to the Office of Legal Records, Department of Law, State Capitol, Albany, NY 12224. Please include the identification number, the date, the section(s) of law considered and the subject of the opinion.

INFORMAL OPINIONS

No. 2003-10

NY Const., art. IX, § 2(c); General Municipal Law, §§ 856, 890-h; Municipal Home Rule Law, §§ 2(5), 10; Racing, Pari-Mutuel Wagering and Breeding Law, §§ 501, 502, 503, 505, 518, 520, 532, 1000, 1001, 1003, 1007, 1008, 1009; L. 2003, ch. 62, § 27; L. 1984, ch. 363, § 14.

A village may not prohibit OTB simulcast or non-simulcast branch offices in all zoning districts, nor may it prospectively prohibit simulcast theaters in all districts. It may withhold its consent to establish a particular simulcast theater. The applicability of valid village land use regulations, other than those specifically provided for by statute, to a proposed OTB facility would be governed by the balancing test set forth in *Matter of County of Monroe*, 72 N.Y. 2d 338 (1988). *October 17, 2003.*

No. 2003-11

General Municipal Law, §§ 207-c, 208-d.

Eligibility of off-duty police officers injured while working security for city-owned recreation center for General Municipal Law, § 207-c benefits. *October 21, 2003.*

No. 2003-12

General Municipal Law, art. 10, § 209; Town Law, art. 11; 16 U.S.C., §§ 1b, 1c, 459e.

Absent contract or federal mandate to provide fire protection services to the Fire Island National Seashore, a fire district has no legal obligation to provide such services to the Seashore. *October 21, 2003.*

No. 2003-13

NY Const., art. IX, § 2(c)(6) and (c)(10); Alcoholic Beverage Control Law, § 2; Municipal Home Rule Law, § 10(1)(ii)(a)(6) and (a)(12); Town Law, §§ 64(3), 130(15).

A town may allow the consumption of alcohol on town property, and may implement a permit system to regulate such consumption. *October 28, 2003.*

No. 2003-14

NY Const., art. IX, art. VIII, § 1, art. XVIII; Municipal Home Rule Law, § 10(1)(ii)(a)(12).

A county may finance the acquisition of property for the development of affordable housing where most of the property will be used for low-income residential purposes for at least 40 years and all

rental income derived from the leased non-residential portion of the property will be used to subsidize the residential rents. *October 28, 2003.*

No. 2003-15

General Business Law, § 599-a; Highway Law, §§ 10, 102, 193, 194, 195; Vehicle and Traffic Law, §§ 153, 1621, 1680, 1682; 17 NYCRR Part V, § 200.9(b).

Installation of a speed bump on a town highway is not prohibited by State law, but is regulated as a highway design feature. *October 28, 2003.*

FORMAL OPINIONS

No. 2003-F3

Labor Law, arts. 6, 19, 19-A, §§ 21, 190, 192, 193, 196(1) (a)-(c), 196-a, 197, 198, 198-a, 199-c, 660, 662(2), 663, 671, 678, 680(2), 681; 8 U.S.C., §§ 1108, et seq.; 29 U.S.C., § 151; Pub. L. No. 99-603.

The decision of the United States Supreme Court in *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*, 535 US 137 (2002), does not preclude the New York State Department of Labor from enforcing State wage payment laws on behalf of undocumented immigrants. *October 21, 2003.*