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Hinman Straub Secures NYS Supreme Court Victory

Court Strikes Down Burdensome, Costly Provisions of State Department of Health Assisted Living Regulations

On Friday, September 11, the NYS Supreme Court ruled in favor of a lawsuit filed by Himan Straub Attorney David Luntz, on behalf of the Empire State Association of Assisted Living (ESAAL). The decision rendered the bulk of the Department of Health's 2008 regulation for the Assisted Living Residence (ALR) null and void.

"We are very pleased with this outcome; it is a well deserved victory for assisted living residences across New York," said Luntz. "Our concerns were centered on the fact that the regulation went far beyond what was intended by the NYS Legislature. If enacted as written, the regulation would have driven affordable assisted living out of reach for many seniors, without improving the quality of life for residents."

In 2008, DOH adopted a series of new regulations that placed onerous, expensive and unnecessary requirements on providers in the industry. For example, the regulations would have required facilities to have nurses and other personnel on staff for a specified number of hours each day, regardless of whether residents need them. Similarly, the regulations set forth new expensive structural and architectural standards for assisted living residences. Both of these mandates would have demanded a large financial outlay from providers that would have inevitably resulted in higher fees for residents.

"This lawsuit was never against the need for targeted reforms, which would build upon and strengthen New York's already strong framework of requirements for assisted living and adult home communities," said Luntz. "These mandates would have dramatically increased costs for assisted living residences and the people who live there."

Currently, ESAAL representatives are reaching out to DOH and other stakeholders to modify the regulations in a way that will protect all adult home and assisted living residents and ensure access to affordable care.

David Luntz, a member of the firm's litigation department, is an experienced trial attorney who represents corporations, municipalities and individuals in New York State and Federal Courts. Luntz has represented clients as lead counsel in more than 50 jury trials throughout New York.

Albany-based Hinman Straub PC is a full-service law firm that provides individual, institutional and corporate clients with comprehensive legal and government relations services. The firm offers comprehensive expertise in an array of practice areas, including corporate law, education, estate and financial planning, government relations, health insurance, health law, labor and employment, life insurance and litigation.