

M

MATTIONI

COUNSELORS AT LAW

Newsletter

Volume 15 www.mattioni.com November 2014



Eugene Mattioni Appointed to Navigation Commission

By Mayor Michael Nutter

Eugene Mattioni, Shareholder at Mattioni, Ltd, has just been appointed by Mayor Michael Nutter to the Navigation Commission for the Delaware River and its Navigable Tributaries. The Navigation Commission consists of seven members and two ex officio members. Mayor Nutter is responsible for appointing two of these members. “The citizens of Philadelphia and I are grateful to you for assuming this important role and for helping to ensure the safety of our local rivers”, Mayor Nutter stated in a letter to Eugene.

The Navigation Commission has many responsibilities, including deciding all differences which may arise between

Continued on page 2

Articles



In this Newsletter

[Eugene Mattioni Appointed to Navigation Commission by Mayor Michael Nutter](#)

~ and ~

[Mattioni, Ltd. Sponsor and Host at Maritime Law Association Fall Meeting](#)

~ and ~

[Background Checks and Gun Control; Possible New Legislation](#)

~ and ~

[Pennsylvania's Recent Changes to the Mechanics' Lien Law](#)

masters, owners and consignees of ships and vessels, and pilots. They also establish regulations governing the application, qualifications, recruitment, selection and training of apprentices.

Since its inception in 1907, the Commission has been vested with the authority to grant licenses to Pennsylvania pilots and regulate the services they provide. This is particularly important for the Philadelphia waterways because every foreign vessel traversing the Delaware River and its navigable tributaries is generally required to use the services of a pilot licensed by either Pennsylvania or Delaware. A Pennsylvania-licensed pilot has the local knowledge of tides, currents, channel depths, and other conditions needed to safely navigate a vessel on the Delaware River.

Gene has supported the maritime community many years. Most recently, Gene was named "Person of the Year" by the Ports of Philadelphia Maritime Society. He was also the recipient of the United States Merchant Marine Academy Meritorious Alumni Service and Outstanding Professional Achievement Awards and was President of the Philadelphia Chapter, USMMA Alumni Association. Gene also served on the Executive Board of the Seaman's Church Institute, and as Vice Chairman of the Chapel of Four Chaplains earning it's Bronze Medallion. Gene is a member of the Board of the Maritime Exchange for the Delaware River and Bay and is active in many maritime charities. He is a proud sponsor of the World War II US Merchant Marine and US Navy Armed Guard Memorial.

Gene is also a member of the Justinian Society, Saint Thomas More Society, Maritime Law Association of the United States, and Ports of Philadelphia Maritime Society. He is a founding

Continued on page 3



OFFICES

PENNSYLVANIA
399 Market Street, Suite 200
Philadelphia, PA 19106
Telephone (215) 629-1600
Fax (215) 923-2227

NEW JERSEY
1316 Kings Highway
Swedesboro, NJ 08085
Telephone (856) 241-9779
Fax (856) 241-9989

Member of the Maritime Academy Charter School and currently serves as its Chairman.

Eugene's appointment will last for four years from November 2014 – November 2018.

You may contact Eugene Mattioni by email at emattioni@mattioni.com or by phone at (215) 629-1600 for the Philadelphia office or (856) 241-9779 for the New Jersey office.



Mattioni, Ltd. Sponsor and Host at Maritime Law Association Fall Meeting

The Maritime Law Association (MLA) Fall Meeting and associated events took place this year in Philadelphia at various venues throughout the City of Philadelphia. The semi-annual MLA dinner took place in the National Constitution Center, where many of the lawyers from Mattioni, Ltd. attended.

Mattioni sponsored and hosted two of the MLA committee meetings at their Center City, Philadelphia offices. Attorneys

Eugene Mattioni, Stephen Galati, George Zacharkow and Christian Johnson are all MLA committee members.

The MLA is an obvious connection with Mattioni, as it's connected with a number of international maritime

Continued on page 4

PRACTICE AREAS

- [ADMIRALTY AND MARITIME](#)
- [BUSINESS, FINANCE, AND CORPORATE](#)
- [CIVIL LITIGATION](#)
- [EMPLOYMENT AND CIVIL RIGHTS](#)
- [ENVIRONMENTAL](#)
- [ESTATE PLANNING, TRUSTS, AND ESTATE ADMINISTRATION](#)
- [INSURANCE](#)
- [LONGSHORE & HARBOR WORKERS' COMPENSATION ACT](#)
- [WORKERS' COMPENSATION CLAIMS](#)
- [REAL ESTATE](#)
- [PERSONAL INJURY](#)

Our Attorneys: Presentations, Seminars and Honors

Michael Mattioni will be a guest speaker at a session at the Pennsylvania Bar Institute's 18th Annual Real Estate Institute held December 4 & 5, 2014. Michael will be presenting on a comparison of the significant real estate law differences between Pennsylvania and New Jersey with Joan Adams of Adams & Adams, Attorneys at Law. This is the second year they will be speakers for this event.

organizations. Through its Committees, the MLA keeps abreast of judicial decisions, legislation and regulations in the maritime area. The MLA membership consists of lawyers involved in maritime matters, judges active in matters involving admiralty issues, admiralty law professors, and non-lawyers who are selected because they hold responsible positions in the maritime field and have rendered distinguished service in the advancement of maritime law or its administration.

Mattioni is deeply rooted and involved in the maritime industry and community. Founded in 1963 by Dante Mattioni, the firm expanded to include his four brothers, and it has continued to grow during the ensuing years. From its inception, the firm naturally specialized in handling legal admiralty and maritime matters, as each of the brothers had been a professional mariner before turning to the law, and the firm remains a recognized leader in this field.

The MLA is a professional organization concerned with improvements in the maritime law, which stands ready to be of help to those interested in this area of law. The MLA is an Affiliated Organization of the American Bar Association.



Background Checks and Gun Control:
Possible New Legislation

By Kira Rold and Michael Mattioni, Esquire

Seven and a half years ago, a mentally ill Virginia Tech student
Continued on page 5



Michael Mattioni, President of Mattioni, Ltd., is a 1986 graduate of Villanova University with a degree in finance and business, and earned his JD from the University of Pittsburgh School of Law in 1989. Mr. Mattioni also was awarded his Masters in Law in Taxation from Temple University Beasley School of Law.

The firm of Mattioni, Ltd. has been providing litigation support and counseling to businesses and individuals throughout the tri-state region for more than forty years.

You may contact Mr. Mattioni by email at mmattioni@mattioni.com or by phone at (215) 629-1600 for the Philadelphia office or (856) 241-9779 for the New Jersey office.

shot and killed 32 people, injured 17 others, and took his own life. In response to this national tragedy, Congress enacted the National Instant Criminal Background Check System (NICS) Improvement Amendments Acts of 2007. The Act provided incentives for states to make more records available in the national database for use during firearm-related background checks. The Act specifically emphasized the need for states to make mental health and unlawful drug records available to the NICS, which is used to check the background of individuals attempting to acquire a firearm nationwide.

After enacting this legislation, state submission of mental health records to the national database increased the number of people unable to purchase a firearm for mental health reasons by 600%, according to the U.S. Government Accountability Office Report of July 2012. While emphasizing the importance of state provision of mental health records to the national database, the Act also provided that states should provide a means of seeking relief for individuals who have been disqualified from owning a firearm for mental health reasons but have subsequently made sufficient progress to be capable of owning a firearm safely.

In line with the federal Act, in 2012, Representative Todd Stephens proposed a bill that would require the Pennsylvania State Police to send all existing mental health records to the NICS within 90 days and to submit new mental health information to the national database within 48 hours of the State Police's receipt of the mental health records. The bill, HB 1243, has gone through several drafts and is currently under review by the Senate Judiciary Committee. The current version of the bill includes both minor and major amendments. One of the more minor amendments would require the State Police to submit new mental health information to the national database

Continued on page 6



**Congratulations to Josh Kobylarz,
the newest attorney
joining Mattioni, Ltd.**

Mattioni, Ltd. would like to congratulate and welcome Joshua Kobylarz to the firm. Josh recently passed the Pennsylvania and New Jersey Bar Exams and earned his J.D. from Temple University's Beasley School of Law with honors. His focus will initially be on business matters and real estate and zoning issues.

Josh interned with Judge Sloviter of the Third Circuit Court of Appeals. He was also a member of the law review and was a member of the winning team for Temple's Client Counseling competition in 2012-2013. Josh has interned with Mattioni, Ltd. since 2013.

You may contact Josh directly at JKobylarz@mattioni.com

within 72 hours of their receipt by the Police rather than the originally proposed 48 hours. Another amendment would require the State Police to transmit criminal and mental health records relevant to the determination that a person is not disqualified from possessing a firearm as well as records that affirmatively show that a person should be disqualified from possessing a firearm.

The most major and noteworthy amendment to the current version of the bill is the removal of the provisions allowing a person prohibited from owning a firearm due to their mental health status the ability to seek relief from their disqualified status after a medically noted change in the individual's mental health condition. The most recent amendments to the bill strike the portions allowing relief. The former version would have allowed a prohibited individual to apply for relief and upon the finding of a court that the person did not present a risk of harm to the applicant or any other person, the applicant could be relieved of their prohibited status. The General Assembly's removal of this provision demonstrates the need to strike a balance between public safety and an individual's right to possess a firearm so that society does not have to suffer another tragedy like the Virginia Tech incident.

This article highlights some of the provisions of pending legislation aimed at reducing gun violence. Anyone with any questions regarding this legislation should contact an appropriate professional.

Michael Mattioni, Esquire is President of the law firm Mattioni, Ltd., where he practices in the tax, business, real estate development, land use and zoning areas of the firm.

Kira Rold is a law clerk with Mattioni, Ltd., having recently started her third year at Penn State Dickinson School of Law.

MEET OUR ATTORNEYS

- [JOSEPH F. BOUVIER](#)
 - [RONALD R. DONATUCCI](#)
 - [STEPHEN J. GALATI](#)
 - [BRIAN T. GUTHRIE](#)
 - [CHRISTIAN JOHNSON](#)
 - [JOSH KOBYLARZ](#)
 - [EUGENE MATTIONI](#)
 - [JOHN MATTIONI](#)
 - [MICHAEL MATTIONI](#)
 - [PHILLIP A. McFILLIN](#)
 - [JENNIFER POPELACK](#)
 - [STEVEN F. REILLY](#)
 - [JOSEPH STRAMPELLO](#)
 - [GEORGE R. ZACHARKOW](#)
-



Pennsylvania's Recent Changes to the Mechanics' Lien Law

By Anna Haslinsky and John Mattioni, Esquire

The Pennsylvania Mechanics' Lien Law enables contractors and subcontractors to ensure they are paid for work and improvements made on real property, including residential property. However, as previously written and interpreted, the law created problems for homeowners, lenders, and contractors. To address these issues, on July 9, 2014, Governor Corbett approved amendments to change the law in three major ways: it will prioritize certain open-ended mortgages over mechanics' liens; protect homeowners from subcontractors' liens when the homeowner has paid the primary contractor in full; and reduce existing liens to reflect partial payment.

First, under the new amendments, mechanics' liens are now subordinate to open-ended mortgages if at least 60% of the proceeds of that mortgage are used to pay costs of construction, even if visible work began before the mortgage was perfected. Previously, the Superior Court interpreted the law to mean that, in order for the mortgage to have priority over the mechanic's lien, *all* of the proceeds of the mortgage had to be used to cover costs of the actual repair or alteration. This limited reading was problematic because these open-ended mortgages often cover other costs, such as recording and title

Continued on page 8

Attorney Advertising - Mattioni Ltd © 2014

Disclaimer

The content of this Newsletter has been prepared by Mattioni, Ltd. for informational purposes only and should not be construed as legal advice. The material in this Newsletter is not intended to create and receipt of it does not constitute, a lawyer-client relationship, and readers should not act upon it without seeking professional counsel.

fees, among others. To resolve this issue, the amendments include a non-exhaustive list of costs that may be covered by the loan, such as closing costs, permits, and insurance in addition to traditional construction costs. With this expanded language, the mortgage can now cover a greater range of expenses and it should be easier for borrowers to qualify for construction loans because the mortgage lien will have priority. Thus, as long as 60% of the loan proceeds are used or intended to cover the more generalized costs of construction, mortgage liens will have priority over a mechanic's lien.

Second, if a homeowner has paid the primary contractor in full, a subcontractor will no longer be qualified to assert a mechanic's lien to recover costs from the homeowner. Previously, subcontractors could file a lien, even if the homeowner had already paid the primary contractor in full. Senator Kim Ward introduced these changes after homeowners in her district were victims of such "unscrupulous business practices" when primary contractors collected full payment from homeowners, then skipped town without paying the subcontractors. Although the homeowners already paid the general contractor in full, subcontractors could file a lien which forced the homeowner to fight double-payment. With these amendments, a subcontractor no longer has the right to file a lien for an improvement to residential property when the owner or tenant has paid the full price owed to the primary contractor.

Finally, in addition to discharging the lien for full payment, homeowners may now apply for a court order to reduce a lien to reflect partial payment of the bill. The law will now allow an owner or party in interest to a residential property to petition the court to reduce the lien based on the payments, rather than be subject to a lien against the property for more than what is owed.

Continued on page 9

These amendments go into effect on September 7, 2014 and will apply to liens that are not perfected until after that date, even if visible work started prior to September 7th. These changes are important because they modify the impact of mechanics' liens in a way that gives greater protection to homeowners and lenders with respect to residential construction.

This article provides an overview of the recent amendments to the mechanics' lien law. This article does not provide legal advice regarding these amendments and every situation regarding these amendments is different. Anyone with questions about the mechanics' lien law and these amendments should contact an attorney.

John Mattioni, Esquire is a Shareholder of the Philadelphia office of the law firm Mattioni, Ltd., where he handles complex litigation matters.

Anna M. Haslinsky is a law clerk with Mattioni, Ltd., having recently started her third year at Villanova University Law School.
