

Tidelands

Q The land in question was tidelands claimed however the State had issued a grant to a prior owner. The description in the deed from the seller to our proposed insured only covers the upland; the property covered by the grant is not included in the description. Does the granted area automatically pass with the deed to the upland?

A Not necessarily.

In 2007, the NJ Supreme Court held in *Panetta v. Equity One*, 190 N.J. 307 (2007) that while a riparian right not mentioned in a deed can be appurtenant, a riparian grant cannot. The *Panetta* court held that a separately assessed riparian grant is not appurtenant to abutting upland property as a matter of law (at page 324). Obviously, then, if the tideland-claimed area is shown on the municipal tax map as a separate lot, it will not automatically pass with a conveyance or mortgage of the upland.

To the extent the upland and the tideland granted land are included in the same tax lot, the answer is a bit murkier. In this situation, assistance from a member of our underwriting staff should be obtained.

OR May 2014