



On December 22, 2008, Dare County, Town of Nags Head, Starco Realty & Construction, INC., and Joseph M. Geraghty, (a.k.a. Petitioners) through their attorney Keith Kapp (from the law firm of Williams Mullen), filed several proceedings in Wake County against the North Carolina Department of Insurance (“NCDOI”), the Commissioner of Insurance (“Commissioner”) and other named parties. The filings allege, among other things, that by issuing the November 21, 2008 Decision, the NCDOI and Commissioner:

- a. violated constitutional provisions,
- b. acted in excess of statutory authority or jurisdiction,
- c. acted upon unlawful procedure,
- d. made errors of law,
- e. made decisions unsupported by substantial evidence,
- f. and issued decisions that were arbitrary, capricious or an abuse of discretion.

More specifically, the NCDOI and Commissioner erred in issuing decisions regarding deductibles and surcharges that were excessive and unfairly discriminatory pursuant to the Statute. In particular, the deductibles and surcharges do not equitably reflect the differences in expected losses and expenses between the coastal regions participating in the Beach Plan and the FAIR Plan as compared to other areas of the state.

As a result of the November 21, 2008 Decision, the Petitioners are asking, among other things, that the Court:

1. Determine that the NCDOI and the Commissioner erred in issuing the November 21, 2008 Decisions
2. Order the Commissioner hold public hearings
3. Stay the Decision and enjoin the NCDOI from enforcing the decision until there is a judicial review by the Superior Court of Wake County
4. Tax such costs of the action as may be permitted by law and against the NCDOI including attorney’s fees
5. Grant such other further relief as the Court seems just and proper