



Debra Lane &lt;debra.lane@capeelizabeth.org&gt;

## New form response from Joe Barbieri

1 message

**Application for Boards and Committees** <cetv@capeelizabeth.org>

Tue, Apr 30, 2019 at 9:48 AM

Reply-To: cetv@capeelizabeth.org

To: debra.lane@capeelizabeth.org

(Link to spreadsheet)

Below is the result of your feedback form. It was submitted by

Joe Barbieri on Apr 30, 2019:

<b>Date:</b>	Apr 30, 2019
<b>Committee No. 1</b>	Board of Zoning Appeals
<b>Name</b>	Joe Barbieri
<b>Address</b>	3 Harriman Farm Road
<b>Home</b>	
<b>Is your home phone unlisted?</b>	No
<b>Cell</b>	
<b>Email Address</b>	
<b>Occupation</b>	Lawyer
<b>Employer</b>	None
<b>Why did you choose the board(s) or committee(s) listed above?</b>	I enjoy land use law and the appellate process.
<b>What talents/skills do you feel you would bring to this position?</b>	As a lawyer for the California Attorney General's office, I had over 25 years experience representing California land use agencies.
<b>What municipal boards, volunteer organizations or community service groups have you worked with in the past and for what length of time?</b>	Peacham (Vt.) Community Housing Board (four yrs.); Peacham Justice of the Peace (two yrs.)
<b>Are you employed by the Town of Cape Elizabeth or</b>	No

<b>the Cape Elizabeth School Department?</b>	
<b>Do you serve as a volunteer for the Town of Cape Elizabeth or Cape Elizabeth School Department?</b>	Yes
<b>If so, please explain:</b>	Library volunteer for Pond Cove School and now CEMS
<b>Is your schedule flexible enough to allow you to attend meetings regularly?</b>	Yes

Sent via Google Forms Email

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 **Application for Boards and Committees Joe Barbieri .pdf**  
53K

# Joseph Barbieri

3 Harriman Farm Rd.  
Cape Elizabeth, ME 04107

## EDUCATION

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### **University of California School of Law (Boalt Hall) Berkeley, California**

*J.D. Degree, May 1978*

Honors and Activities: Order of the Coif (top 10%); American Jurisprudence Award, Contracts; Associate Editor, Industrial Relations Law Journal; Moot Court Advisory Board

### **Northwestern University**

*B.A. Degree, June 1973*

## EXPERIENCE

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### **Deputy Attorney General, California Attorney General's Office**

**January 1981-November 2007 (permanent); December 2007-present (part-time)**

As a member of the Land Law section in the office's Public Rights division, I represented the California Coastal Commission, State Lands Commission and San Francisco Bay Conservation and Development Commission in trial and appellate litigation involving land title, land use and environmental law. I was also asked to assist other sections of the office in major litigation concerning water rights and state clean air regulations. In addition to litigation, I provided oral and written advice to state agencies and to the Attorney General in non-litigation matters; attended and advised agencies at public hearings; prepared bill analyses for pending legislation; and in my last four permanent years supervised the attorneys and paralegals in the Oakland Land Law section.

My major accomplishments included:

*Marine Forests Society v. California Coastal Com.*, 36 Cal.4th 1 (2005). In this nationally publicized case, the plaintiff contended that the Coastal Commission was unconstitutional because the Legislature retained the power to appoint and remove a majority of the Commission's members. I was asked to handle the case after the trial court declared the Commission unconstitutional. I prepared the appellate briefs and argued the case before the California Supreme Court. The Court unanimously upheld the Commission's validity and the Legislature's authority.

*Landgate v. California Coastal Com.*, 17 Cal.4th 1006 (1998). After the trial court determined that the Commission's denial of a lot line adjustment caused a "taking" of private property, I was asked to handle the case. I prepared the appellate briefs and argued the case before the California Supreme Court. The Court found that the Commission's mistaken denial of the lot line adjustment was not a taking and was not compensable.

*Granite Rock v. California Coastal Com.*, 480 U.S. 572 (1987). The case concerned the authority of a state agency to regulate mining on federal land. I participated in the briefing and served as "second chair" before the United States Supreme Court. The Court upheld the authority of the State to regulate mining operations as long as it did not prevent the mining operator from engaging in activities authorized by Congress.

*Lechuza Villas West v. California Coastal Com. and State Lands Com.*, 60 Cal.App.4th 218 (1997). The Coastal Commission denied the developer a permit to develop sandy beachfront property on coastal shoreline. One major issue concerned the location of the boundary that separated the private upland from the public tidelands. After a lengthy trial, the trial court ruled against the state agencies. I prepared the briefs and argued the case before the Court of Appeal. The appellate court agreed with the State that the coastal boundary is the mean high tide line and reversed the trial court's finding that the Coastal Commission had engaged in a taking.

*Mono Lake Title Case*. This case occurred early in my career. After an adverse ruling by the trial court, I was assigned this litigation between California and the federal government to determine ownership of the lands around Mono Lake that had been uncovered by the waters' recession. I handled the trial and the appellate argument, but the federal courts ruled in the federal government's favor.

*Kern River Title Litigation*. This was an eight-week trial to determine whether a stretch of river was navigable and therefore owned by the State. I presented and cross-examined numerous experts in subjects such as hydrology, geomorphology, history, and surveying. The State lost in the trial court, and the case was settled before appeal.

*United States Supreme Court Amicus Curiae Briefs*. I was twice asked to prepare amicus curiae briefs in the United States Supreme Court on behalf of California and numerous other states. *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001); *Solid Waste Agency of Northern Cook Cty. v. Army Corps of Engineers*, 531 U.S. 159 (2001). I have contributed to the preparation of other Supreme Court briefs.

*Greenhouse Gas Litigation*. I was asked to help defend California against automakers who sued the State to prevent enforcement of California's landmark regulations restricting greenhouse gas emissions by automotive vehicles. I also assisted other states (including Vermont) that had adopted California's regulations. Both Vermont and California prevailed in the trial court against claims that the regulations conflicted with federal law. After the new federal administration granted California a Clean Air Act waiver to enforce its

regulations, I was a principal author of the States' brief supporting the federal government's waiver decision. The District of Columbia Court of Appeals ruled in favor of the federal government and the States.

*Congressional Testimony.* I testified on behalf of the California Attorney General and 35 other state attorneys general against a bill intended to make it easier to sue state governments for an unconstitutional taking. The bill was never passed.

**Staff Attorney, Appalachian Research and Defense Fund, Beckley, West Virginia (Volunteer position.)**

**July 1990-May 1991.**

I provided advice and legal representation in administrative and civil litigation for clients of this West Virginia legal services program. The legal issues involved government entitlements, landlord-tenant law, family law, consumer law, and employment discrimination. I authored our client's brief and then argued before the West Virginia Supreme Court in a case challenging the denial of our client's employment discrimination claim. The West Virginia court reversed an adverse ruling by the state's civil rights commission, and found that our client had properly alleged retaliation for complaining about her discriminatory treatment. *Osborne v. W. Va. Human Rights Com.*, 402 S.E.2d 253 (1991).

**Law Clerk to the Honorable Thomas Tang, United States Court of Appeals for the Ninth Circuit November 1979-October 1980.**

I drafted published and unpublished decisions for Judge Tang; prepared legal memoranda and recommendations in cases before oral argument; and prepared legal memoranda for motions, petitions for rehearing and opinions circulated by other judges.

**Court Law Clerk, United States Court of Appeals for the Ninth Circuit September 1978 to November 1979.**

I prepared legal memoranda and draft decisions in pending cases on appeal, and prepared memoranda and proposed orders for civil and criminal motions. For six weeks, I served as a temporary law clerk to Judge Tang.

## **BAR MEMBERSHIPS**

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**California State Bar; United States Supreme Court; United States Court of Appeals for the Ninth Circuit; District Court for the Northern and Eastern Districts of California**