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Client Alert



Governor Christie Signs "Time of Application" Bill into Law

By Henry T. Chou, Esq.

Marking a major victory for the development community, Governor Christie has signed into law a measure that abolishes the longstanding "Time of Decision" rule governing zoning determinations. The bill, which was passed by both houses of the Legislature earlier this year and is commonly referred to as the "Time of Application" bill, was signed by Governor Christie on May 5, 2010, and takes effect in one year. It will essentially lock in the zoning that is in effect at the time the development application is filed (with the exception noted below).

The legislation creates a new provision in the Municipal Land Use Law that nullifies the "Time of Decision" rule, which dictates that zoning ordinances in effect at the time of a land use board's decision on an application are applicable, even if the ordinance was adopted after the application had been filed or had already been declared complete.

Since 1995, when the New Jersey Supreme Court upheld the "Time of Decision" rule, it has been commonly used by municipalities to harpoon disfavored development applications. The practice involved rezoning properties for which there were development applications pending, leaving many applicants with substantial sunk costs and loss of investment-backed expectations.

Beginning on May 5, 2011, the ordinances in effect on the date of filing of a development application govern the application, with the exception of ordinances relating to public health and safety. Put simply, applicants will be "locked in" to the zoning ordinance in effect on the date that they filed their applications. A stated goal of the "Time of Application" bill is to bring a measure of stability and certainty to the development application process.

The new law can be viewed at the New Jersey Legislature's website.

For more information, contact one of the attorneys who work in this area: [Thomas F. Carroll, III, Esq.](#), [Kenneth E. Meiser, Esq.](#); [Donald R. Daines, Esq.](#), [Stephen M. Eisdorfer, Esq.](#), [Henry T. Chou, Esq.](#), or [Michael J. Lipari, Esq.](#)