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ZONING & LAND USE PRACTICE

# ALERT

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## THE TIME OF THE APPLICATION RULE - THE NEW STANDARD FOR LAND DEVELOPMENT APPLICATIONS

By Alexander M. Wixted and Henry L. Kent-Smith

On May 5, 2010, Gov. Christie signed legislation that represents a shift in the long-standing right of a municipality to amend or alter its land development regulations after an applicant has filed a land development application. The legislation, S-82, modifies the development application process under the Municipal Land Use Law to afford significant benefits to developers.

S-82, commonly referred to as the “time of application” or “time of decision” legislation, provides that a land development application will be governed by the municipal development regulations in effect at the time the application is submitted, and any provisions of any ordinance adopted subsequent to the submission date are not applicable to the application filed prior. However, the new legislation does not extend to ordinances that are adopted relative to health and public safety; thus, an applicant will continue to be subject to the reach of such ordinances to the extent applicable. The legislation affects development applications submitted on or after

May 5, 2011, which gives municipalities time to update their Master Plans and zoning ordinances in anticipation of the new procedures.

Although the legislation does not guarantee in any way that an application will be granted, it clarifies the development regulations by which the application will be examined. As Gov. Christie noted, “[t]his legislation makes common sense changes to improve the application process and move New Jersey in the right direction of providing a friendlier environment for job creation, while keeping safeguards for public health and safety in place.”

A copy of the legislation can be viewed at:  
[http://www.njleg.state.nj.us/2010/Bills/S0500/82\\_T1.PDF](http://www.njleg.state.nj.us/2010/Bills/S0500/82_T1.PDF).

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