



Bill Preventing a Landowner Curative Amendment After an Appellate Court Declares a Municipal Ordinance Invalid Passes House of Representatives and Moves to Senate

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On December 12, 2007, the Pennsylvania House of Representatives passed House Bill 1787, which proposes to amend the Pennsylvania Municipalities Planning Code by adding Section 609.3 titled "Procedure for Municipal Curative Amendment Subsequent to Appellate Court Decision."

Under this new provision, if an appellate court determines a municipality's zoning ordinance, or a portion thereof, to be invalid, the municipality then has 30 days from the date of the court's decision to, by resolution, make specific findings setting forth the declared invalidity of the ordinance. In addition, the municipality would be provided with a 210-day period from the date of the court's decision to enact a curative amendment to validate or reaffirm the validity of its zoning ordinance and to cure the invalidity declared by the appellate court.

When the municipality elects to follow this new procedure, neither the municipal governing body nor the zoning hearing board would be permitted to consider any landowner curative amendments based on grounds identical to or substantially similar to the reasons set forth in the municipality's resolution of findings as to the ordinance's invalidity. Upon completion of the municipality's curative amendment within the 210-day time period, no right to a cure shall accrue to any landowner from the date the court's decision is filed on the basis of the substantive invalidity of the unamended zoning ordinance.

This bill, if passed by the Senate, would prevent developers from having the ability to file a curative amendment with a municipality once an appellate court determines that a municipality's ordinance, or a portion thereof, is invalid. Rather, the municipality is provided with a 210-day window within which to cure their ordinance without the threat of further curative amendments being filed.

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