

Pennsylvania is Back on the Clock with the Development Permit Extension Act

PUBLISHED ON

October 10, 2016

A government-approved "time-out" on commercial and residential development in Pennsylvania is ending, and could lead to a surge of development throughout the state.

The sluggish economy of the recent recession spurred Pennsylvania and several other states to adopt legislation providing time extensions for certain land development and construction approvals. Pennsylvania's Development Permit Extension Act ("Act"), originally passed in 2010 and amended in 2012 and 2013, suspended certain time periods in which land development or construction needed to start, or be completed, after the project received governmental approval. During the recession, commercial and residential land development slowed to troubling levels, with many development projects idling while completion deadlines crept up on the developers, many times before ground had even been broken. For example, a developer may have obtained approval to build a 100-home development, but would not be able to sell and build that number of homes within the timeframe required by the applicable approvals because of the stagnant economy. If those deadline dates for development weren't relaxed, development projects could have been significantly restricted or scrapped altogether.

Subsequent amendments to the Act provide that any development approval granted for or in effect between Jan. 1, 2009, and July 2, 2013 (which dates are referred to as the "tolling period"), be automatically suspended until July 2, 2016. Approval is broadly defined and generally includes any approval, permit or other authorization related to land development or construction. However, there are certain exclusions, such as NPDES permits or approvals issued to comply with Federal law. Except for Philadelphia, the suspension provided is automatic, so developers don't have to apply for or otherwise act for their approval to be covered by the Act.

According to the Act, the holder of an approval may request a written verification from the government agency that issued or authorized an approval that it is suspended and to verify when the approval will expire. The verification is helpful not only to confirm the government agency acknowledges the validity of the approval, but also to verify its new expiration date.

The new expiration of an approval covered by the Act can be calculated by determining the timeframe of the approval initially, and then deducting how much of the approval's lifespan has existed outside of the tolling period. For example, if a development approval has a four-year duration and was issued on Jan. 1, 2007, two years would have elapsed before the tolling period under the Act began. The clock started ticking again on July 2, 2016, and with two years left on the approval, the new expiration date would be on or about July 2, 2018. If an approval was issued within the tolling period, the clock would not have even started ticking until July 2, 2016. It is important to consult an attorney to determine whether you hold an approval that is covered, and when such approval will expire.

If the goal for the Act in Pennsylvania and other states like it is realized, the "time-out" called on land development and construction approvals will mean that developers will now be calling "time-in" on proceeding with these projects. These delayed effects of the Act may very well encourage progress on pent-up development and further stimulate a rebounding economy. Time will tell.

:



Christopher A. Naylor

Partner

Tel: (717) 852-4997

Email: cnaylor@barley.com