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PA Law Allows Municipal Governments to Hold Virtual Meetings for Zoning and Land Development Applications.

On April 20, Pennsylvania Gov. Tom Wolf signed into law Act 15 of 2020 (previously SB 841), which expressly authorizes municipal governments and local agencies to hold virtual meetings during the pendency of the COVID-19 emergency in the Commonwealth. Act 15 may end the current confusion among municipal officials and the real estate developers that have business before them as to how to handle pending matters.

Under the Pennsylvania Municipalities Planning Code, a municipality's governing body must approve or deny a land development plan application within 90 days of the first planning commission meeting following submission. Similarly, a zoning hearing board must commence a hearing on a variance or special exception application within 60 days of submission. If the decisions are not made or the hearings are not held within the statutory time periods, an application is deemed approved. Pennsylvania law also requires a quorum of a municipal agency to be present to take formal action.

Because of the stay-at-home orders in place in the Commonwealth, municipal governments and their agencies, such as planning commissions and zoning hearing boards, have struggled to hold timely meetings and hearings to consider zoning and land development applications. While many meetings and hearings were cancelled or postponed indefinitely with the consent of the applicants, some municipalities have attempted to hold meetings and hearings through virtual means, like Skype or Zoom. But without express statutory authorization for these virtual meetings, the actions taken at those meetings may be invalid. This is concerning to real estate developers that do not want to make additional investments in a project without certainty that the initial zoning approvals cannot be the subject of a procedural challenge at a later date.

The enactment of Act 15 provides clarity to municipalities and developers alike. Initially, Act 15 authorizes municipal governments and agencies to conduct meetings, hearings and other proceedings during the COVID-19 emergency by means of authorized telecommunication devices. The Act defines "authorized telecommunications device" as including "any device which permits, at a minimum, audio communication between individuals."

Also under Act 15, all time periods within which a municipality must act on zoning and land development applications are suspended and tolled from March 6, 2020 to May 20, 2020, and each applicant subject to the time extension is to receive written notification of the time extension. These applicants will also receive notice that they may request a meeting or hearing on the application to be held before May 20, 2020, and the municipality or local agency may proceed with such a request at its discretion. Notice of the meeting or hearing must be provided to the public and interested parties at least five days before the meeting or hearing via a post on the municipality's website or in a newspaper of general circulation. Also, any party receiving actual notice of the meeting or hearing is deemed to waive any challenge based on the Commonwealth's open meeting laws and other applicable laws governing the notice, conduct or participation in a meeting or hearing.

Although Act 15 does provide some guidance to municipalities and developers alike, as a newly

developed law, practical difficulties in holding virtual meetings and hearings will almost certainly arise, such as the presentation of witnesses and evidence by applicants and objectors. Nevertheless, the Act protects municipalities against deemed approvals during these challenging times, and creates a path for developers to move forward with the approval process.

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