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Data Centers, Local Zoning, and Land Development: How to Protect Your Project From Costly Delays - Ballard Spahr

Data center development continues to surge, yet local zoning and land development frameworks have not kept pace. Across the country, projects are encountering delays and added risk due to outdated ordinances, procedural gaps, inconsistent interpretations by local officials, and increasing public opposition. Even well-capitalized projects can be threatened by these issues. These risks can be managed with careful planning, clear documentation, and guidance from lawyers experienced in complex land use and data center development matters. Understanding where projects most often run into trouble is the first step toward preventing setbacks and initial and future delays in delivering data center projects on time and on budget.

Secure Clear and Final Land Use Approvals

Many zoning codes do not explicitly address data centers. When ordinances fail to address data centers expressly, approvals often hinge on how individual zoning officers interpret terms such as industrial, utility, or technology facility. That ambiguity can open the door for appeals, even after substantial capital has been committed. Before proceeding with site work, ensure approvals are not only obtained but are also final and unappealable. Investors and lenders should consider obtaining zoning opinions when available or other supporting legal analysis to confirm the approval and land use status of a given site before development commences.

Verify Proper Public Notice Procedures

Establish a clear record of compliance with all public notice requirements. Even minor procedural missteps, such as missed postings, incomplete filings, or improper notice delivery, can extend or invalidate appeal periods. In some cases, the appeal period might never begin, leaving completed projects vulnerable to challenge months or even years later.

Continue reading.

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