



Senate Passes Bill Expanding MLUL Notice Requirements

By Jason L. Sobel, Esq.

In a previous article, this column covered the upholding of the uniform notice requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 to 163 (the MLUL). This issue is back in the spotlight as the New Jersey Senate has just approved new legislation on point. S1428/1540 (the Bill), sponsored by Senators Buono, Karcher and Rice, allows municipalities to require and control the posting of signs on or around property under application for development. After initially expressing a strong opposition to the Bill, the New Jersey Builders Association worked with the sponsors of the Bill to ensure that an application will not be affected if a municipal official neglects to post a sign. Additionally, the Bill adapts the MLUL and grants municipalities the option to

increase the required radius for notice of development projects to surrounding landowners from 200 feet to 300 feet and would also allow municipal officials to post signs, established under local ordinance, on property which is subject to a pending development application. The Senate passed the Bill on May 28 with a vote of 29-10 and it has since moved on to the Assembly as identical bill A1683.

Townships like Edison, Millstone and Marlboro are certainly celebrating this possible change, as they have all attempted to expand notice requirements in the past. The legislation discussed herein all stems from a situation involving a proposed Wal-Mart development in Edison, in which most of the neighboring residents were unaware when the planning

application went through the process. In fact, the predecessor to this article looked at an effort by the township of Edison to increase the notification requirements on its own due to the Wal-Mart development situation. The appellate court put an end to that attempt in *New York SMSA v. Township Council of the Township of Edison*, dictating that townships cannot infer any grant of authority to edit the clear notice requirements of the MLUL.

Not unlike the situation surrounding the Edison Township Council's efforts to increase notification requirements, Senator Karcher's involvement with the Bill was inspired by two instances in the 12th legislative district where township officials attempted to institute a

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similar policy of increased notice requirements and failed in court. The success of this Bill is a step toward victory for those parties.

Senator Karcher asserts that the rationale for the expanded notice requirement stems from the idea that property owners are affected well beyond 200 feet from a development project. She asserts that, beyond that range, traffic patterns are still affected, there is an increased demand for utilities, and property tax payers

are often called upon to financially support sizeable development through the price of utility improvements that have to be made for the projects to be completed. Senator Karcher has also stated that when development that could potentially change the face of a community is in the planning stages, local residents need the notification to let their voices be heard. She feels that opening up the development planning process to increased public scrutiny and trans-

parency is a good thing and will put increased pressure on public officials to operate above the fray of political contributions. Additionally, she feels that through greater notification standards and signs marking where development is planned to take place, we can give the public the tools they need to fight development that they feel is bad for their community. Senator Barbara Buono has also commented on this Bill by stating her belief that as the state works to combat sprawl and encourage smart growth, it is critical that the public have as much input into local development decisions as possible and that these new notification requirements are still reasonable, yet they provide a greater opportunity for input from the community. Despite the foregoing arguments of supporters in favor of the Bill, these expanded notification requirements will still negatively impact developers and other applicants by seriously increasing the application hurdle.

For developers and other applicants, these legislative developments represent a significant turn for the worse. Should the Assembly pass this Bill and the governor sign it into law, developers and other applicants could face a significant rise in the difficulty of the development application process. With this increased notice requirement, more parties will become aware of applications under review and applicants will naturally encounter more objections to their projects from surrounding property owners.

However, in the face of such proposed hardship, developers can take some solace, however small, in the fact that the uniformity of the MLUL, reaffirmed by the appellate court in *New York SMSA v. Township Council of the Township of Edison*, will not be disrupted by the legislation. The possible changes here are limited to the provisions outlined in the Bill and cannot be inflated at will by municipalities around the state. However troubling the expanded MLUL notice requirements may be, at least they are finite.

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