



NEWSLETTER

# N.J.A.P.Z.A.

VOLUME 1

ISSUE 2

NEWSLETTER DATE

APRIL 2010

## **TIME OF DECISION RULE - POSSIBLE CHANGES** by: **Louis Rago, Esquire**

As many of you have been made aware there is a Bill that has made its way through the State Legislature, and is now on the Governor's desk, known as Senate Bill S-82 and Assembly Bill A-437. The current text of this Bill reads as follows:

1. Notwithstanding any provision of law to the contrary, those development regulations which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application for development. Any provisions of an ordinance, except those necessary for the protection of health and public safety, that are adopted subsequent to the date of submission of an application for development, shall not be applicable to that application for development.
2. This act shall take effect one year next following enactment.

This Bill would amend the Municipal Land Use Law and modify a general rule governing land use decision-making. Under current law a planning board or zoning board of adjustment is required to apply the law in effect at the time it renders its decision rather than the law in effect when the application was initially presented to the municipality. This has been referred to for years as the "time of decision rule". Thus, a municipal governing body can currently amend its zoning ordinance after an application for development has been filed with the land use board, even in direct response to the application, and the land use board would decide the matter based upon that amended ordinance, with certain limited exceptions.

## **IMPORTANT: DATES TO REMEMBER**

- **2010 Achievement in Planning Award** will be held at the Woodbridge Hilton on Friday, April 23, 2010.
- **Current Issues in Planning and Zoning; East Windsor Holiday Inn** Please save the date! *June 11, 2010.*
- **NJAPZA Annual Luncheon Meeting** will be held on Wednesday, November 17, 2010 in the Chelsea Ballroom of Trump Plaza in Atlantic City.

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**TIME OF DECISION RULE - POSSIBLE CHANGES** continuedby: **Louis Rago, Esquire**

Under this proposed Bill, a land use board would be required to render its decision on an application for development in accordance with the development regulations that are in effect on the date the application for development is submitted to the municipality for filing. The Municipal Land Use Law defines the term “development regulation” as a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land. The Bill also provides that any provision of an ordinance, except those necessary for the protection of health and public safety, that are adopted after the date an application for development is submitted to the municipality, would not be applicable to that application for development.

Naturally, this Bill has both its supporters and opponents. The State Legislature has recognized that the application of the “time of decision rule” sometimes causes inequitable results, such as when an applicant has expended considerable amounts of money for professional services, plans and reports that become unusable after an ordinance has been amended. This Bill, which certainly would have the support of the development community, would effectively prohibit municipalities from responding to an application for development by changing the law to frustrate that application, however, the Bill does recognize that ordinance changes might be necessary for the protection of health and public safety, and these changes would continue to apply to pending applications.



The general position of municipalities is that the existing “time of decision rule” is a judicially-recognized regulations in effect at the time the board decision is *rendered*. This rule is created out of judicial respect for the separate powers of legislative bodies, and provides municipalities the mechanism to correct errors or close previously unanticipated loopholes in statutory or ordinance language. Courts have applied this rule to allow municipalities to principle that decisions are to be made on the basis of the laws, ordinances and rectify errors in zoning ordinances. The rule has also permitted a municipality to give initial legislative consideration to serious and substantial planning concerns that, for whatever reasons, had not been previously addressed in their ordinances.

As is usually the situation, there are no doubt legitimate arguments both for and against this Bill which would be difficult to detail in this column. However, in the event this Bill is signed into law the State Legislature has set forth that it shall not take effect for one year following its enactment. Putting the probability of court challenges aside, this period of time is intended to allow municipalities the opportunity to digest the new legislation and plan appropriately.

**NEW JERSEY ASSOCIATION OF PLANNING & ZONING ADMINISTRATORS MEMBERSHIP APPLICATION**

**MEMBERSHIP YEAR 2010**

NEW MEMBER \_\_\_\_\_

RENEWING MEMBER \_\_\_\_\_

Name \_\_\_\_\_

Years in Position \_\_\_\_\_

(as you would like it to appear in the directory)

Title \_\_\_\_\_ Business number \_\_\_\_\_

(as you would like it to appear in the directory)

Board \_\_\_\_\_ Fax number \_\_\_\_\_

Municipality \_\_\_\_\_ E-mail \_\_\_\_\_

Address \_\_\_\_\_ County \_\_\_\_\_

**Region:**

Northern \_\_\_\_\_

Home Address \_\_\_\_\_ Central \_\_\_\_\_

Southern \_\_\_\_\_

Home number \_\_\_\_\_ Office hrs \_\_\_\_\_

Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ If part time, day(s) in office \_\_\_\_\_

Name of Local Newspaper: \_\_\_\_\_

What day of the week would you prefer to have County or Regional meetings? \_\_\_\_\_

What time of day? Early morning \_\_\_\_\_ Luncheon meeting \_\_\_\_\_ Afternoon during work \_\_\_\_\_

Afternoon after work \_\_\_\_\_ Dinner meeting \_\_\_\_\_

**PLEASE INDICATE IF YOU WOULD LIKE TO ACTIVELY PARTICIPATE ON ANY OF OUR COMMITTEES OR PROJECTS:**

Education & Certification \_\_\_\_\_ Newsletter/Public Relations \_\_\_\_\_ Convention \_\_\_\_\_ Web \_\_\_\_\_

Law & Legislative \_\_\_\_\_ Membership \_\_\_\_\_ Budget \_\_\_\_\_ Other \_\_\_\_\_ Mentor \_\_\_\_\_

**Make checks/vouchers payable to:**

**Membership dues: \$45.00**

*New Jersey Association of Planning & Zoning Administrators (NJAPZA)*

Please send copy of membership form and check or PO to Bonnie Imposimato with original membership application to Dawn Hernandez

Old Bridge Township Planning Dept.

Dawn Hernandez, Admin Assistant.

One Old Bridge Plaza

Old Bridge, NJ 08857

Bonnie Imposimato

17 Desai Court

Freehold, NJ 07728



**NEW 2010 NJAPZA MEMBERS!**

**Charles Amorosso, Borough of Northvale**

**Jeanann Bergamo, Old Bridge Township**

**Edward E. Blakeslee, North Bergen Township**

**Morgan Blevins, Beachwood Borough**

**Marianne Borthwick, Manchester Township**

**William D. Boyle, South Bound Brook**

**Rae L. Brand, Eatontown Borough**

**David G. Brown II, City of Plainfield**

**Donald Cain, Manchester Township**

**Sandra J. Capaldo, Borough of Roselle Park**

**Jolene Conner, Holmdel Township**

**Darlene Garcia, Manchester Township**

**Robert A. Kairys, Borough of North Arlington**

**Arlene Kazmark, Borough of Woodland Park**

**Susan Kilcheski DeLuca**



**NEW 2010 NJAPZA MEMBERS!**

**Jeanette M. Larrison, Holmdel Township**

**Gail Malone, City of Ocean City**

**Barbara Margolese, Clinton Township**

**Salvatore Marino, Borough of Lincoln Park**

**Daniel Melfi, Teaneck Township**

**Nancy A. Probst, Far Hills**

**Paul Renaud, Borough of Englewood Cliffs**

**Maxine Rescorl, Aberdeen**

**Bonnie Richards, Township of Haddon**

**K. Rizza, Woodcliff Lake**

**Caterina Scancarella, Borough of Englewood Cliffs**

**Valerie Schreck, Rockaway Township**

**Cynthia Shaw, Mountain Lakes**

**William D. Watson, Merchantville**

**Eric L. Zanetti, Township of Berkeley**



## NEWSLETTER

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**WE'RE ON THE WEB:**

**[WWW.NJAPZA.ORG](http://WWW.NJAPZA.ORG)**

Should you like to add to or see anything in future issues of the newsletter please drop me an email with your suggestions and/or ideas. We welcome any and all members who would like to help with the newsletter.

**Please email me at :**

**[dmhernan@oldbridge.com](mailto:dmhernan@oldbridge.com)**

**PLEASE SEND IN YOUR  
MEMBERSHIP FORMS BY  
MAY 31, 2010 TO INSURE  
THEY MAKE IT INTO THE  
2010 EDITION OF THE  
NJAPZA MEMBERSHIP  
DIRECTORY**

## N.J.A.P.Z.A. 2010—ELECTED OFFICIALS

<b>PRESIDENT</b>	ADELE LEWIS MAPLEWOOD TOWNSHIP (973) 762-8120
<b>PRESIDENT-ELECT</b>	FRANK VUOSO SOMERVILLE BOROUGH (908) 725-2300, EXT 1962
<b>CORRESPONDING SECRETARY</b>	DEBRA L. ROGERS PRINCETON TOWNSHIP (609)921-1359
<b>RECORDING SECRETARY</b>	MICHAEL PROIETTI NORTH BRUNSWICK TOWNSHIP (732) 247-0922, Ext. 440
<b>TREASURER</b>	BONNIE IMPOSIMATO HOLMDEL TOWNSHIP (732) 946-2820, Ext. 1321

## N.J.A.P.Z.A. 2010—APPOINTED OFFICIALS

<b>EDUCATION CHAIRMAN</b>	ILENE CUTRONEO PRINCETON TOWNSHIP (609) 924-5366
<b>REGIONAL DIRECTOR COORDINATOR</b>	DEBRA ROGERS PRINCETON TOWNSHIP 609) 921-1359
<b>MEMBERSHIP COORDINATOR</b>	DAWN HERNANDEZ OLD BRIDGE TOWNSHIP (732) 721-5600, Ext. 2365
<b>NEWSLETTER EDITOR HISTORIAN</b>	DAWN HERNANDEZ OLD BRIDGE TOWNSHIP (732) 721-5600, Ext. 2365
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<b>RUTGERS UNIVERSITY EDUCATION REPRESENTATIVE</b>	JACKIE ZELINKA (732) 932-3640 Ext. 625
<b>GENERAL COUNSEL</b>	LOUIS P. RAGO, ESQUIRE
<b>COUNSEL EMERITUS</b>	THOMAS COLLINS, ESQ.

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