

March xx, 2010

RE: PLEASE VETO S-82/A-437, Time of Decision

The Hon. Chris Christie,
Governor, State of New Jersey
PO Box 001
Trenton, NJ 08625

Dear Governor Christie:

The reason I am writing to you today is to request that you veto S-82/A-437. S-82/A-437 overrides the long-standing "Time of Decision" rule by granting that a developer's rights (i.e. protection against any subsequent changes in zoning) begins begin as soon as an application for development is submitted, apparently for an indefinite period of time and without regard to whether the application has been deemed complete. In contrast, the Municipal Land Use Law which provides that once a developer receives either preliminary site plan approval or preliminary subdivision approvals, it is protected against any zoning changes for a period of three years, which can then be extended for another two years.

If signed into law, S-82/A-437 will deprive municipalities the ability to correct deficiencies in their land use ordinances that might become apparent only upon the filing of a specific application. Although developers frequently assert that such changes are motivated solely by a desire to stymie their applications, the reality is that municipalities cannot anticipate every eventuality or unintended consequence of their regulations, and need to retain the flexibility to amend those regulations when necessary to safeguard the public health, safety and welfare.

The effect of this legislation would be to reduce, or eliminate, the ability of municipalities to react to imperfections in their ordinances prior to their local boards rendering a decision on an application. The time of decision rule offers municipalities protection from applications aimed at loopholes, errors and the inability of legislative bodies to predict every possible negative impact in the drafting of general regulations.

The time of decision rule has permitted a municipality to give initial legislative consideration to serious and substantial land use planning concerns that, for whatever reasons, had not previously been addressed in their ordinances.

With this, I urge you to veto S-82/A-437.

Very truly yours,

cc: Richard Bagger, Esq., Chief of Staff, Office of the Governor
Jeffrey S. Chiesa, Esq., Chief Counsel, Office of the Governor
NJ League of Municipalities

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