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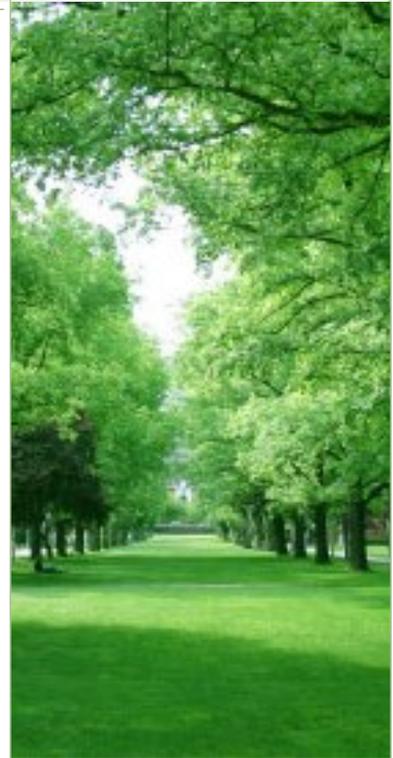


January 9, 2017

Municipalities May Have Authority to Challenge Rezoning and Development in Adjacent Municipality

Concerned about the rezoning to H-3 Heavy Industrial zoning and possible approval of a heavy industrial development [proposed to include concrete crushing/recycling, a contractor’s office, semi-truck parking, a concrete batching plant, construction demolition debris recycling, and other related uses] along its border with the Village of Lemont, the Village of Willow Springs sued to stop the development, contending it was “inconsistent with the zoning of the surrounding area,” which was “light industrial, outdoor recreation and open space,” and that it was a public nuisance and would “result in substantial negative impacts for the surrounding area[,] including but not limited to noise, traffic, and increased hazardous and unwanted debris.” The Court confirmed the authority of municipalities to bring such challenges, but found that in this case, the Village of Willow Springs failed to make the required showing of adverse impacts in order to challenge the rezoning and subdivision of the adjacent property in Lemont. The Court noted that a proposed development is generally not subject to challenge prior to its actual approval. In reaching its conclusions, the Court discussed when such challenges can be legally asserted. (See materials herein) A copy of this decision in *Village of Willow Springs v Village of Lemont*, 2016 IL App (1st) 152670 is available at the following link:

<http://www.illinoiscourts.gov/Opinions/AppellateCourt/2016/1stDistrict/1152670.pdf>



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In reaching its conclusions in *Village of Willow Springs v Village of Lemont*, 2016 IL App (1st) 152670 however the Court pointed out was careful to note that where a municipality can clearly demonstrate that, as a neighboring municipality, it would “substantially, directly and adversely affected in its corporate capacity” a municipality has authority to bring an action against a neighboring municipality for a rezoning and/or development for its adverse impacts. It is established then in Illinois that a municipality has authority to challenge the zoning and development decisions of an adjoining municipality, if such an injury to a legally recognized interest can be shown. A summary of the two principal Illinois judicial decisions on this issue are included herewith; the Illinois Supreme Court *Village of Barrington Hills v. Village of Hoffman Estates*, 81 Ill. 2d 392, 398 (1980) and Illinois 1st District Appellate Court in *Village of Northbrook v. County of Cook*, 126 Ill. App. 3d 145 (1984).

Village of Barrington Hills v. Village of Hoffman Estates, 81 Ill. 2d 392 (1980)

In this case the Villages of Barrington Hills and South Barrington filed an action against the Village of Hoffman Estates attempting to block the approval of a project for a 6,000-seat outdoor music theater with additional capacity for at least another 14,000 people, along with extensive additional parking areas, concession services and activities, and audio amplification for musical events and concerts. The complaining municipalities noted that while Hoffman Estates placed the theater a substantial distance from any of its residential neighborhoods, that the theater was located much closer to the residential areas in Barrington Hills and South Barrington. Barrington Hills and South Barrington contended they would suffer special due to the decision by Hoffman Estates to annex and rezone the property in question to authorize the theater development, alleging the theater would result in significant noise increases sound levels, cause significant negative impacts to the area air quality from increased vehicle emissions, decrease property values, cause Barrington Hills and South Barrington to incur new expenses to clean litter and debris from the area caused by theater activities and necessitate the use of additional police presence by Barrington Hills and South Barrington to handle increased traffic congestion. The Supreme Court found these allegations were adequate to establish “direct, substantial and adverse effects upon ... the performance of their corporate obligations, thus giving [the plaintiffs] a real interest in the subject matter of the controversy.” *Id.* at 398.

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Village of Northbrook v. County of Cook, 126 Ill. App. 3d 145 (1984)

The Village of Northbrook sued to block the issuance of a building permit by the County. The permit would have authorized the construction of two 10-story office buildings on property adjoining Northbrook. The buildings represented a significant contrast with the existing, adjacent residential area within Northbrook. Northbrook challenged the construction of these office buildings, alleging they were inconsistent with the existing residences in Northbrook, that they would adversely affect property values in Northbrook, as well as the resulting drop in tax revenues, that traffic congestion would result, that added police protection would be required to manage traffic and fire protection capacity would be burdened due to the development adding to already insufficient storm water drainage systems and putting an increased burden on well water supplies. The Court in that matter concluded that these specific complaints of harm met the “*Barrington Hills*” test for standing as they “sufficiently allege[d] injury to [Northbrook] in its corporate capacity.” *Id. at 147.*

This newsletter is not to be construed as legal advice or a legal opinion under any circumstance. The contents are solely intended for general informative purposes, and the readers of this newsletter are strongly urged to contact their attorney with regard to any concepts discussed herein.

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