



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1055

Introduced 02/03/11, by Rep. Darlene J. Senger

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12012.1

Amends the Counties Code. Establishes procedural rules that apply when a county makes a decision in regard to any petition or application for special use, variance, rezoning, or other amendment to a zoning ordinance that is subject to judicial review because of an action brought by an interest party. Defines interested party to mean the petitioner, the county, any unit of government having jurisdiction over the territory that is the subject of the petition, or any person or entity required to be given notice of the public hearing by mail. Sets forth the due process procedures concerning notice, subpoenas, the right to present evidence at a hearing, and meetings for purposes of case management. Effective immediately.

LRB097 06364 KMW 46445 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing Section
5 5-12012.1 as follows:

6 (55 ILCS 5/5-12012.1)

7 Sec. 5-12012.1. Actions subject to de novo review; due
8 process.

9 (a) Any decision by the county board of any county, home
10 rule or non-home rule, in regard to any petition or application
11 for a special use, variance, rezoning, or other amendment to a
12 zoning ordinance shall be subject to de novo judicial review as
13 a legislative decision, regardless of whether the process in
14 relation thereto is considered administrative for other
15 purposes.

16 (b) Notwithstanding the limitations period set forth in
17 Sections 5-12007 and 5-12009, any ~~Any~~ action seeking the
18 judicial review of such a decision shall be brought by an
19 interested party ~~commenced~~ not later than 90 days after the
20 date of the decision, and after giving 5 days' written notice
21 to the corporate authorities, by filing a complaint for review
22 of the zoning decision in the circuit court. The case shall be
23 set for early hearing as in the case of a motion.

1 (c) ~~(b)~~ The principles of substantive and procedural due
2 process apply at all stages of the decision-making and review
3 of all zoning decisions. In accordance with those principles:

4 (1) notice shall be given as required by the statute
5 governing the zoning relief requested, or as may otherwise
6 be legally required;

7 (2) the Chairman of the Board, commission, or other
8 hearing body, or the hearing officer, shall consider any
9 request for subpoenas, and may issue subpoenas that are
10 reasonably expected to lead to relevant documents or
11 testimony; subpoenas shall be enforceable only against
12 persons or for documents which have a substantial
13 evidentiary connection with (i) the property that is the
14 subject of the zoning petition, (ii) facts that support or
15 negate the requisite legal standards for granting the
16 zoning relief sought in the petition, and (iii) facts that
17 support or negate the conclusion that property owned or
18 resided upon by interested parties will be substantially
19 affected by the outcome of the decision on the petition;
20 all matters relating to subpoenas concerning particular
21 zoning relief, including all enforcement and motions to
22 quash, shall be heard in a single action to be filed not
23 later than 14 days after the date of a decision on the
24 issuance of subpoenas, however, the court obtaining
25 jurisdiction over any such matter may retain jurisdiction
26 until the disposition of the case by the county; service of

1 those subpoenas shall be made in the same manner as summons
2 in a civil action;

3 (3) at the hearing on the petition, all interested
4 parties shall have the right to present evidence and
5 witnesses on their behalf, subject to reasonable
6 limitations as to time, relevance to the legal standards in
7 issue applicable to the zoning relief sought in the
8 petition, redundancy, and the efficiencies of an orderly
9 proceeding;

10 (4) at the hearing on the petition, interested parties
11 shall have the right to question the petitioner and other
12 interested parties, subject to reasonable limitations as
13 to time, relevance to the legal standards in issue
14 applicable to the zoning relief sought in the petition,
15 redundancy, and the efficiencies of an orderly proceeding;
16 and

17 (5) the Chairman of the Board, commission, or other
18 hearing body, or the hearing officer, may, before or during
19 the hearing, convene a meeting of the interested parties
20 for purposes of case management and establishing a
21 pre-hearing or hearing plan to govern the presentation of
22 testimony and other evidence, questioning, relevance, time
23 limitations, and other reasonable considerations that
24 promote an efficient and orderly hearing; any and all
25 objections relating to a hearing plan or other rules
26 established for hearings, pursuant to this paragraph,

1 shall be waived unless made at the meeting and shall be
2 subject to judicial review in a single action that must be
3 filed no later than 7 days after the date the hearing plan
4 or rules are established, however, the court obtaining
5 jurisdiction over any such matter may retain jurisdiction
6 until the disposition of the case by the county.

7 (d) For purposes of this Section, an "interested party"
8 means the petitioner, the county, any unit of government having
9 jurisdiction over the territory that is the subject of the
10 petition, or any person or entity required to be given notice
11 of the public hearing by mail.

12 (Source: P.A. 94-1027, eff. 7-14-06; 95-843, eff. 1-1-09.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.