

## Pennsylvania Legislature Considering Modification of Public Meeting Rules, Suspension/Tolling of Land Use Application Deadlines during COVID-19 Emergency Declaration

Among the many challenges facing Pennsylvania municipalities during the COVID-19 pandemic is how to conduct business in compliance with applicable statutory requirements when the physical presence of their officials, constituents, development applicants and other interested parties is either highly discouraged by public health officials or prohibited altogether. This can be particularly problematic for applicants for a variety of local government land use approvals, consideration and action on which usually are statutorily mandated to take place at public meetings and hearings.

In an effort to address these issues, the Pennsylvania General Assembly is currently considering House Bill No. 1564 on an expedited basis. Among other things, HB 1564 would relax the requirements for physical attendance at public meetings during the Governor's declaration of a disaster or emergency by substituting a variety of telecommunications alternatives. It also would provide for the suspension, or tolling, of statutory deadlines for municipal boards and agencies to hear and act upon a wide variety of land use and other development applications during the pendency of such a declaration. Notably, HB 1564 provides that an applicant can request, and a municipality at its discretion may proceed with, consideration and action on an application using telecommunication alternatives.

HB 1564 is on a fast track, with the House approving it on March 25, 2020, and the Senate expected to act upon it in the next several days. HB 1564 can be viewed [here](#).

The following are the key provisions of HB 1564.<sup>1</sup>

### Use of Telecommunication Devices to Conduct Public Meetings

If the declaration is of a disaster or emergency which would render the conduct of public business dangerous to the health or safety of the members of the governing body, officials or members of the public, the governing body may exercise its executive, legislative, and judicial powers and functions, to the extent possible, by means of telecommunication devices without a quorum physically present at any one location, subject to the following requirements:

- The telecommunication device must permit audio communication between locations, and allow the members of the governing body to speak and hear any comments or votes;
- The governing body must, no later than 24 hours prior to the meeting, post notice on its website of the time and date of the meeting, along with instructions on how to obtain remote participation information, and notify the newspaper of general circulation which normally publishes such notices of the meeting;
- The governing body must (1) either live-stream the meeting, (2) record the meeting and make it available to the public within 24 hours after the meeting,

<sup>1</sup> HB 1564 also authorizes, under certain conditions, the performance of notarial acts facilitated by communications technology for a remotely located individual.

**MARCH 26, 2020**

### CONTACT

**BLAINE A. LUCAS**

*blucas@babstcalland.com*

412.394.5657

**STEPHEN L. KORBEL**

*skorbel@babstcalland.com*

412.394.5627

**ROBERT MAX JUNKER**

*rjunker@babstcalland.com*

412.773.8722

**Pittsburgh, PA**

Two Gateway Center

603 Stanwix Street

6th Floor

Pittsburgh, PA 15222

412.394.5400

**BABSTCALLAND.COM**

including on the municipality's website, if any, or (3) make draft meeting minutes available for public inspection within 48 hours after the meeting either on its website or at an accessible location within the municipality; and

- If the governing body has exercised any executive, legislative, or judicial powers or functions, at the next regularly scheduled public meeting once the declaration has been lifted the governing body must adopt a resolution stating both the actual emergency that occurred and the nature of the power or function exercised.

### **Extensions for Existing and Pending Approvals**

If a municipality, its agency, or board has received an application, plat, plan or other submission for an "approval" as defined in Section 2 of the 2013 Permit Extension Act (which covers local government approvals pursuant to over 30 statutes, including the Municipalities Planning Code, the Flood Plain Management Act, the Stormwater Management Act, the Pennsylvania Construction Code, and the various city, borough and township codes) and the final day to approve or deny the application falls during a disaster declaration, the following would apply:

- As of the date of the declaration, all statutory time limits for review, hearing, and decision on the application will be suspended or tolled, and will resume on the date following the termination of the declaration;
- The municipality must notify the applicant of the declaration, the time extension, and of the right to request any meetings, hearings, or proceedings be conducted using telecommunication devices;
- The failure to receive the notice does not affect the tolling of days;
- The applicant may request any meetings, hearings, or proceedings as required by the law, charter or ordinance governing the application during the period of the disaster;
- The municipality may proceed with the request at its discretion;
- If the municipality agrees and holds the proceedings, the applicant, municipality, and any other parties receiving actual notice of the proceedings, waive any challenge to the proceedings under 42 Pa. C.S. §5571.1 (relating to appeals from ordinances, resolutions, maps) or any other provision of law; and
- The running period of any approval granted and in effect after the beginning of the declaration is automatically suspended during the declaration and resumes after the final termination of the disaster or emergency.

For additional information, please contact Blaine A. Lucas at [blucas@babstcalland.com](mailto:blucas@babstcalland.com) or 412-394-5657, Stephen L. Korbel at [skorbel@babstcalland.com](mailto:skorbel@babstcalland.com) or 412-394-5627, or Robert Max Junker at [rjunker@babstcalland.com](mailto:rjunker@babstcalland.com) or 412-773-8722.

---

PITTSBURGH, PA | CHARLESTON, WV | HOUSTON, TX | SEWELL, NJ | STATE COLLEGE, PA | WASHINGTON, DC

*Babst Calland was founded in 1986 and has represented environmental, energy and corporate clients since its inception. The Firm has grown to 150 attorneys who concentrate on the current and emerging needs of clients in a variety of industry sectors. Our attorneys have focused legal practices in construction, corporate and commercial, creditors' rights and insolvency, emerging technologies, employment and labor, energy and natural resources, environmental, land use, litigation, public sector, real estate and transportation safety. For more information about Babst Calland and our practices, locations or attorneys, visit [babstcalland.com](http://babstcalland.com).*

This communication was sent by Babst Calland, headquartered at Two Gateway Center, Pittsburgh, PA 15222.

This communication is privately distributed by Babst, Calland, Clements and Zomnir, P.C., for the general information of its clients, friends and readers and may be considered a commercial electronic mail message under applicable regulations. It is not designed to be, nor should it be considered or used as, the sole source of analyzing and resolving legal problems. If you have, or think you may have, a legal problem or issue relating to any of the matters discussed, consult legal counsel.

This communication may be considered advertising in some jurisdictions. To update your subscription preferences and contact information, please [click here](#). If you no longer wish to receive this communication, please [reply here](#). To unsubscribe from all future Babst Calland marketing communications, please [reply here](#).

©2019 Babst, Calland, Clements and Zomnir, P.C. All Rights Reserved.