

CHAPTER 78

COURTS

HOUSE BILL 97-1156

BY REPRESENTATIVES Hagedorn, Schwarz, Mace, Morrison, Paschall, Udall, and Zimmerman;
also SENATORS Ament, Bishop, Chlouber, Hernandez, Pascoe, Phillips, Rizzuto, and Rupert.

AN ACT

CONCERNING PROCEDURES TO EXPEDITE JUDICIAL REVIEW OF LAND USE DECISIONS BY LOCAL
GOVERNMENTAL ENTITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) Decisions of local governmental boards and tribunals concerning the use and development of land are often controversial and may have serious and immediate consequences;

(b) Judicial review of such decisions should be as expeditious as possible in order to minimize such consequences and avoid prolonged and divisive controversy within communities;

(c) The purpose of this article is not to usurp the rule-making authority of the Colorado supreme court, but to complement such authority by granting expedited relief to those who may be aggrieved by land use decisions; and

(d) The matters addressed in this article are matters of statewide concern.

(2) If any provision of this act is held invalid with respect to its application to any person or factual situation, all other provisions shall continue to apply, and to that end the provisions of this act are hereby declared severable.

SECTION 2. Title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 51.5

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Review of Land Use Decisions

13-51.5-101. Scope and purpose of article. THIS ARTICLE APPLIES TO JUDICIAL REVIEW OF LOCAL LAND USE DECISIONS IN CASES WHERE IT IS ALLEGED THAT A GOVERNMENTAL BODY OR OFFICER OR ANY LOWER JUDICIAL BODY EXERCISING JUDICIAL OR QUASI-JUDICIAL FUNCTIONS HAS EXCEEDED ITS JURISDICTION OR ABUSED ITS DISCRETION AND THERE IS NO PLAIN, SPEEDY, AND ADEQUATE REMEDY OTHERWISE PROVIDED BY LAW. REVIEW SHALL BE LIMITED TO A DETERMINATION OF WHETHER THE BODY OR OFFICER HAS EXCEEDED ITS JURISDICTION OR ABUSED ITS DISCRETION, BASED ON THE EVIDENCE IN THE RECORD BEFORE THE DEFENDANT BODY OR OFFICER.

13-51.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEVELOPMENT PERMIT" MEANS ANY ZONING PERMIT, SUBDIVISION APPROVAL, CERTIFICATION, SPECIAL EXCEPTION, VARIANCE, OR ANY OTHER SIMILAR ACTION OF A GOVERNMENTAL ENTITY THAT HAS THE EFFECT OF AUTHORIZING THE DEVELOPMENT OF REAL PROPERTY. "DEVELOPMENT PERMIT" DOES NOT INCLUDE A BUILDING PERMIT.

(2) "LOCAL LAND USE DECISION" MEANS ANY ACTION OF A GOVERNMENTAL ENTITY THAT HAS OR WILL HAVE THE EFFECT OF GRANTING, DENYING, OR GRANTING WITH CONDITIONS AN APPLICATION FOR A DEVELOPMENT PERMIT.

(3) "GOVERNMENTAL ENTITY" INCLUDES ANY MUNICIPAL, COUNTY, OR REGIONAL GOVERNMENT WITH THE AUTHORITY TO PLAN AND ZONE LAND. "GOVERNMENTAL ENTITY" DOES NOT INCLUDE THE STATE OF COLORADO, ANY AGENCY OF THE STATE OF COLORADO, THE UNITED STATES, OR ANY AGENCY OF THE UNITED STATES.

13-51.5-103. Request for administrative record - certification

- **time limits.** (1) UNLESS THE COURT SPECIFICALLY ORDERS OTHERWISE UPON A SHOWING OF GOOD CAUSE FOR DELAY, A DEFENDANT GOVERNMENTAL BODY OR OFFICER SHALL FILE THE RECORD PURSUANT TO RULE 106 (a) (4) (III), C.R.C.P., OR ANY SUCCESSOR RULE THERETO WITHIN THIRTY DAYS AFTER THE FILING OF THE COMPLAINT.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL ASPECTS OF THE PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE, INCLUDING WITHOUT LIMITATION C.R.C.P. 106 AND ANY SUCCESSOR THERETO.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1997, and shall apply to actions commenced on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 8, 1997