



Municipal Law News

April 2012

CHANGE IN MUNICIPAL APPROVAL PROCESS FOR LIQUOR COMMISSION REQUESTS

- Ronald D. Richards

As informally announced at the February 2012 Administrative Law Luncheon, the Michigan Liquor Control Commission (Commission) has recently issued an official notice about the "local approval" part of the liquor license application process. Effective April 1, 2012, the Commission is changing its procedure to obtain approvals – the Commission will require all applicants for licenses to submit to the Commission required approvals from the local municipality or the local law enforcement agency.

Previously, when an applicant for a license submitted an application to the Commission, the Commission would send requests for local approvals directly to the local municipalities. But under this change, the Commission now requires applicants to directly submit requests for these local approvals to the local unit of government or local law enforcement agency before the Commission will review or consider a license application. The Commission will not send requests directly to the local municipality anymore.

Given the new make-up of the Commission, we expect that this change is just one of many changes that may come down the pipeline as to the way the Commission handles liquor license-related requests.

If you have any questions about handling a liquor license request for local approval, or liquor license-related matters, please contact Ronald Richards. ■ ■



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FEDS PASS NEW LAW LIMITING A MUNICIPALITY'S AUTHORITY TO DENY REQUESTS TO COLLOCATE OR REPLACE WIRELESS TOWER EQUIPMENT

- Ronald D. Richards

On February 17, 2012, Congress passed the "Middle Class Tax Relief and Job Creation Act of 2012 (the "Act"), HR 3630. President Obama has signed the Act into law. Though most of the attention given the Act highlights its extension of unemployment benefits and tax cuts, the Act also impacts municipalities. The Act has a little-known clause that amends the federal telecommunications laws to limit municipalities' authority to deny certain requests to modify existing wireless towers or replace existing facilities on existing towers or structures.

Here is the relevant part of the new Act:

Sec. 6409. WIRELESS FACILITIES DEPLOYMENT

(a) FACILITY MODIFICATIONS.

1. IN GENERAL - Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104-104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

2. ELIGIBLE FACILITIES REQUEST - For purposes of this subsection, the term "eligible facilities request" means any request for modification of an existing wireless tower or base station that involves

- a. collocation of new transmission equipment;
- b. removal of transmission equipment; or
- c. replacement of transmission equipment.

3. APPLICABILITY OF ENVIRONMENTAL LAWS - nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

The exact limits this new Act places on municipalities is a bit unclear. For example, it is unclear whether (a)(2)(A) applies only to the existing tenant on a wireless tower who is, for itself only, collocating new transmission equipment, or for any new carriers who wish to collocate an existing wireless tower. We suspect that the exact reach of this new Act will be determined in court cases coming down the pipe. Until then, though, municipalities must ensure that they are aware of this new law and work to handle wireless applications consistent with the express language in the Act.



FOSTER SWIFT FREE WEBINARS

Millages: What You Need to Know About Drafting Proposals and Placing Them on the Ballot

April 19, 2012: 11am - 12pm
Presenter: Anne Seuryck

Many municipalities are contemplating millages this year in order to properly fund municipal services. However, placing a millage proposal on the ballot can be an exciting but stressful time for a municipality.

This webinar will focus on the authority of a public body to place a millage on the ballot, the legal requirements for the ballot language and the legal aspects of running a millage campaign. Time will be scheduled to respond to your questions.

REGISTRATION LINK

www.gotomeeting.com/register/137150648

An Update on the 2011 Labor Law Changes and the Impact on Michigan Municipalities

June 6, 2012: 12pm - 1pm
Presenters: Michael Blum & Johanna Novak

In 2011, the Legislature passed the Publicly Funded Health Insurance Contribution Act and the Municipal Partnership Act, and amended the Public Employment Relations Act (PERA). These changes in the law will significantly impact public sector finances, and limit the topics for bargaining between public sector unions and management.

This webinar will discuss the new legal requirements and restrictions required under these new laws, and the impact they likely will have on Michigan municipalities. Time will be scheduled to respond to your questions.

REGISTRATION LINK

www.gotomeeting.com/register/505813664

UPCOMING WEBINAR SERIES FOR NEW MUNICIPAL OFFICIALS

From December 2012 through May 2013, the Foster Swift Municipal Law Group will conduct a series of free webinars to help newly elected municipal officials come up to speed on the laws that govern Michigan municipalities. The webinars will outline basic municipal law principles, along with suggested "best practices" to avoid pitfalls. This is a "can't miss" for new township officials! It can also be a nice refresher for even veteran municipal officials.

The webinar series will consist of six seminars. The planned topics are as follows:

- December 2012** Planning Commission & ZBA nuts and bolts
- January 2013** Open Meetings Act
- February 2013** Freedom of Information Act
- March 2013** Labor Law Basics and Update
- April 2013** Municipal Ethics
- May 2013** Municipal Bonds

Look for specific dates and more details in upcoming newsletters.

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