BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

CLIENT ALERT - SENATE BILL 328: ENHANCEMENTS TO FLORIDA'S LIVE LOCAL ACT

May 17, 2024

Yesterday, Governor DeSantis signed into law Senate Bill 328, which amends the Live Local Act (the "Act"). The amendment incorporates improvements to the Act requested by various stakeholders since the Act became law.

As background, in 2023, Governor DeSantis signed into law Senate Bill 102, also known as the Live Local Act. The purpose of the bill was to incentivize affordable housing development throughout the state and to create opportunities for residents to live closer to where they work. Notably, the Act preempted local zoning code by providing developers with the highest allowable density in the jurisdiction and the highest allowable height in the jurisdiction within one mile of the proposed development, provided that no less than 40% of the total residential units were reserved as affordable (i.e., with rentals no more than 120% of the average median income).

After the Live Local Act became law, stakeholders recognized various deficiencies, including the need to clarify language in the Act, protection of residential neighborhoods from out of context development and expanding the set of tools to encourage developers to take advantage of the Act's provisions. The new amendment, among other things, addresses the items summarized below.

- **Clarifies that local governments are preempted with respect to floor area ratio ("FAR")**

  A jurisdiction may not restrict the FAR of a proposed development below 150% of the "highest currently allowed FAR".

- **Requires a parking reduction for developments located in transit supportive areas**

  A development can obtain a 20% parking requirement reduction if it is: (a) located within one-half mile of a "major transportation hub" that is accessible by "safe, pedestrian friendly means" and (b) located within 600 feet of parking that is "available" for use by residents of the development.

- **Limits the maximum building height for development that is adjacent to existing single-family residential neighborhoods**

  If a development is "adjacent" to parcels that are zoned for single-family residential on at least two (2) "sides," then the height of the proposed development is limited to the greater of: (a) 150% of the tallest building on any property adjacent to the proposed development; (b) the highest currently allowed height that applies to the property being developed under the local government's land development regulations; or (c) three stories.

- **Parking requirement eliminated for "transit-oriented development"**

  If a development is located in a "transit-oriented development", then the parking requirement can be eliminated. "Transit-oriented development" is defined as areas identified in a local government comprehensive plan, that is or will be served by existing or planned transit service. For example, areas

in and around the Miami-Dade County Metrorail stations. The amendment also mandates that all developments in such areas must be mixed-use.

- **Allows market rate units to be designated as "for sale" units**

  Under the original Act, the language was interpreted to mean that all units in the development, including non-affordable units (i.e., market rate units), had to be rental. The amendment clarifies that the market rate units are not required to be rentals. For example, such market rate units could be sold as condominiums while the 40% affordable component would still be required to be rentals.

- **Option to proceed under the original Act or the amended Act**

  A developer had the option for its application to be governed by either the Act or the amended Act if the property owner had already submitted an application or notice of intent to utilize the Act prior to the effective date of the amended Act. If the developer chooses to proceed under the amended Act, the jurisdiction must allow for an amendment to the application.

Berger Singerman's Government and Regulatory Team remains dedicated to keeping you informed about significant legislative developments that may impact your future developments and business operations. The amendments to the Live Local Act present new opportunities and considerations for developers and local governments alike.

Should you have any questions or require further guidance on how these changes may affect your projects, please contact Javier Vazquez or Edward Baker.

Related Practices

Land Use & Zoning

Real Estate

Related Practice Teams

Government and Regulatory

Related Team Member(s)

Topics

Live Local Act