



## Real Estate Law Alert

A Corporate Department Publication

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This Real Estate Law Alert is intended to provide general information for clients or interested individuals and should not be relied upon as legal advice. Please consult an attorney for specific advice regarding your particular situation.

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### Property Owners' Failure to Act Could Lead to Loss of Development and Permitting Rights

Recent legislative changes in Florida give homeowners and developers alike the opportunity to extend existing development orders and permits. To take advantage of this extension, however, written notice is required before the end of 2009.

Commonly referred to as SB (Senate Bill) 360, but cited as the "Community Renewal Act," the 2009 legislation brought a sea of change to the area of growth management and land development regulations. The legislation, which was driven by the economic downturn affecting many areas of the state that depend on construction and development to support local economies, faced strong local government and environmental opposition. Although the Governor wavered in the face of this opposition, he ultimately signed the bill into law on June 1, 2009. The legislation took effect immediately.

One of the primary effects of the legislation is the extension for up to two years of the expiration date of already-issued development orders and permits. Under Florida Statutes Chapter 163's broad definition of such development orders and permits, this extension will include building permits along with zoning, site plan, subdivision plat, and almost every other species of development approval that would otherwise expire between September 1, 2008 and January 1, 2012.

To receive this extension, the holder of each valid, qualifying permit or development order must notify the authorizing government agency in writing no later than **December 31, 2009** of its intent to take advantage of the extended expiration date. Typically, the notice must identify the specific permit or development order to be extended. In addition, some local governments have very specific requirements and may, for example, require permit or development order holders to state their anticipated timeframe for acting on the extended permit/development order. An application fee may also be required.

Failure to comply with the provisions of SB 360 or local government requirements will result in a written denial of the extension. Unquestionably, the impact of not receiving an entitled extension could lead to a project's premature collapse and fiscal failure. For these reasons, among many others, development rights, like all property rights, need to be protected and preserved for the owner's maximum utility and economic advantage.