

March 30, 2020

Governor's Emergency Declaration in Response to the COVID-19 Outbreak Authorizes Extension of Time for Development Orders and Permits in Florida

On March 9, 2020, Florida Governor Ron DeSantis issued Executive Order 20-52, declaring a statewide emergency in response to public health impacts caused by the outbreak of the novel corona virus (COVID-19) in the State of Florida.

Pursuant to Section 252.363, Florida Statutes (the "Statute"), a declaration of state of emergency by executive order of the Governor for 'natural emergencies' gives rise to tolling of expiration dates for eligible permits and development orders issued by municipalities and counties, as well as permits issued by the Department of Environmental Protection or a water management district pursuant to part IV Chapter 373, and buildout dates for Developments of Regional Impact.

The Statute provides for an automatic extension for all valid qualified permits and development orders of: ***6 months plus the duration of the state of emergency***. Currently Executive Order 20-52 creates a state of emergency for 60 days through May 8, 2020, meaning the tolling period would extend current expiration dates for projects across all counties in Florida for up to 8 months.

Real Estate Developers and other permit holders should note the following:

- ***Tolling of Expiration Date upon Proper Written Notification.*** The Statute affords automatic right to an extension upon written notification to the issuing jurisdiction. Permit holders and property owners wishing to take advantage of the statewide tolling must notify the issuing governmental authority of its intent to exercise its rights under the Statute for valid permits or development orders which have not already expired.
- ***Important Time Parameters.*** Written notification of intent to exercise tolling under the Statute must occur prior to expiration of said permit or development order and not later than 90 days after the expiration of the state of emergency. Based on the current declaration of state of emergency, the deadline is August 5, 2020. This date is subject to change if the Governor further extends the COVID-19 state of emergency.¹

¹ In event that Governor DeSantis extends the state of emergency, which has been common with hurricanes and other natural emergencies affecting Floridians, including the Zika Virus public health crisis in 2016, the total tolling period could ultimately extend beyond 8 months.

- **Phased Construction Project Considerations.** If a phased project deadline is extended, the commencement and completion dates for any required mitigation are extended such that the mitigation activities occur in the same timeframe relative to the phase as originally permitted.
- **Possible Reasons for Exclusion.** Projects considered to be in noncompliance with the code and permits conditioned on court approval may be ineligible under the Statute.

Because each local government jurisdiction and regulatory authority may have independent protocols or forms that are adopted in relation to the Statute, it is advisable to contact an attorney licensed in Florida with expertise in this area of law to assist in identifying the applicable local government jurisdiction, evaluating the potential applicability of the Statute and advising on perfecting notification requirements.

For information directly from the State of Florida:

- [Executive Order 20-52, March 9, 2020](#)
- [Florida DBPR Guidance on Executive Order 20-52, Applicability of Sec 252.363, FS, March 20, 2020](#)

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Wernick & Co, PLLC brings you this client alert as part of our efforts to stay on top of legal developments in these times of unprecedented change.

If we can be of assistance or you would like more information about eligibility of a development order or permit related to a project in your pipeline, please do not hesitate to contact us.

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This Client Alert is prepared for informational purposes only and should not be construed as legal advice. In the event you wish to discuss a particular legal matter or the legal implications of the Declaration of State of Emergency as to your property or eligibility of development orders or permits in place, you should consider seeking legal advice from an attorney licensed to practice law in Florida.