



## Real Estate Development Alert

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### Holders of Development Permits with Statutory 2-Year Extensions May Need to Resubmit Extension Applications

In an August 26 decision, Chief Judge Charles Francis of the Second Judicial Circuit (Leon County) granted summary judgment in favor of a group of Florida cities and counties seeking to overturn growth management legislation widely known as "Senate Bill 360," or "SB 360" approved in 2009. Judge Francis concluded that because certain sections of the legislation violated Florida constitutional prohibitions against unfunded mandates, the legislation was unconstitutional.

Although the decision focused on the cost of amending local government comprehensive plans required in SB 360, the provisions of the law that allowed developers to extend for two years the expiration date of building permits, site plan approvals and similar development approvals were thrown out with the bathwater.

Fortunately for those that obtained SB 360 two-year extensions, SB 1752 adopted by the legislature in 2010 may offer a way to keep those permits alive. SB 1752 was not challenged in the litigation before Judge Francis and allows those holding a development approval with an expiration date between September 1, 2008 and January 1, 2012 to secure an extension for a period of two years after its previously scheduled date of expiration. To obtain the extension, permittees must notify the authorizing agency in writing by December 31, 2010 of the specific permit to be extended and the anticipated time frame for beginning work under the permit.

Although the dust has not yet settled on the fall of SB 360 - and the time to appeal has not yet expired

- developers and landowners who received a development permit extension under SB 360 and have been unable to commence or complete work authorized by the permit may need to keep options open by submitting an application to the permitting agency to extend the permit for an additional two years. The application should reference SB 1752 and must be submitted by December 31, 2010. ■

*\*Courtesy of Berger Singerman's Government and Regulatory Team with offices in Fort Lauderdale, Miami, Boca Raton and Tallahassee.*

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