January 18, 2012

NJ Streamlines Land Use Approvals for Certain Wireless Collocations

On January 17, 2012, Governor Christie signed a bill to assist telecommunications carriers in obtaining local land use approvals for installations on existing structures. The act amends the New Jersey Municipal Land Use Law to exempt collocations on existing support structures from formal site plan review and approval by the municipal approving authority, provided the facility meets the following criteria:

(i) The existing support structure has previously received all necessary government approvals;

(ii) The proposed collocation complies with the final approval of the existing support structure, including any conditions of approval;

(iii) The proposed collocation does not create a condition that requires variance relief;

(iv) The proposed collocation does not increase the overall height of the existing support structure by more than 10 percent of the original height of the support structure;

(v) The collocation does not increase the width of the support structure; and

(vi) The proposed collocation does not increase the size of the existing equipment compound to an area greater than 2,500 square feet.

The act intends to broadly extend the site plan exemption to collocations involving any structure *capable* of supporting wireless communications equipment, including monopoles, lattice towers, water tanks, utility poles and buildings. However, ambiguities and qualifications in the act will require further interpretation of its application.

The act does not completely usurp municipalities' jurisdiction to zone and review proposed wireless facilities and collocations. Towns may still adopt zoning ordinances pertaining to the design and permitted locations for wireless facilities and require that carriers appear before the local planning board or zoning board of adjustment, as appropriate, to obtain approval for the use, such as a use variance or conditional use approval.

Nevertheless, the act may provide two distinct benefits for wireless collocations: (i) It exempts qualifying collocations from zoning applications and hearings when a facility is permitted by the local zoning ordinance and complies with all the applicable bulk requirements; and (ii) when zoning is required by the zoning ordinance, the act could eliminate certain filing requirements for qualifying collocations (e.g., a survey requirement) because the applications will not be seeking site plan approval.

The full text of the act is available here:

http://www.njleg.state.nj.us/2010/Bills/S3000/2989_R3.PDF