

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 582 Session of  
1995

INTRODUCED BY PRESTON, LAUGHLIN, TRELLO, GIGLIOTTI AND FARMER,  
FEBRUARY 6, 1995

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 6, 1995

AN ACT

1 Amending the act of March 7, 1901 (P.L.20, No.14), entitled "An  
2 act for the government of cities of the second class,"  
3 providing for land use appeals.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. The act of March 7, 1901 (P.L.20, No.14),  
7 referred to as the Second Class City Law, is amended by adding  
8 an article to read:

9 ARTICLE IX.I.

10 Land Use Appeals.

11 Section 1. The procedure set forth in this article shall,  
12 notwithstanding any other provision of law, constitute the  
13 exclusive mode for securing review of any land use decision  
14 rendered pursuant to this act, the act of March 31, 1927  
15 (P.L.98, No.69), referred to as the Second Class City Zoning  
16 Law, or a local ordinance.

17 Section 2. All appeals from all land use decisions rendered  
18 pursuant to this act, the act of March 31, 1927 (P.L.98, No.69),

1 referred to as the Second Class City Zoning Law or a local  
2 ordinance shall be taken to the court of common pleas of the  
3 judicial district wherein the land is located and shall be filed  
4 within thirty days after entry of the decision as provided in 42  
5 Pa.C.S. § 5572 (relating to time of entry).

6 Section 3. (a) Land use appeals shall be entered as of  
7 course by the prothonotary or clerk upon the filing of a land  
8 use appeal notice which concisely sets forth the grounds on  
9 which the appellant relies. The appeal notice need not be  
10 verified. The land use appeal notice shall be accompanied by a  
11 true copy thereof.

12 (b) Upon filing of a land use appeal, the prothonotary or  
13 clerk shall forthwith, as of course, send to the governing body,  
14 board or agency whose decision or action has been appealed, by  
15 registered mail, the copy of the land use appeal notice,  
16 together with a writ of certiorari commanding said governing  
17 body, board or agency, within twenty days after receipt thereof,  
18 to certify to the court its entire record in the matter in which  
19 the land use appeal has been taken, or a true and complete copy  
20 thereof, including any transcript of testimony in existence and  
21 available to the governing body, board or agency at the time it  
22 received the writ of certiorari.

23 (c) If the appellant is a person other than the landowner of  
24 the land directly involved in the decision or action appealed  
25 from, the appellant, within seven days after the land use appeal  
26 is filed, shall serve a true copy of the land use appeal notice  
27 by mailing said notice to the landowner or his attorney at his  
28 last known address. For identification of such landowner, the  
29 appellant may rely upon the record of the municipality and, in  
30 the event of good faith mistakes as to such identity, may make

1 such service nunc pro tunc by leave of court.

2 Section 4. Except in the event of an appeal by the  
3 municipality, the filing of an appeal in court under this  
4 article shall not stay the action appealed from, but the  
5 appellant may petition the court having jurisdiction of land use  
6 appeals for a stay. If the appellant is a person who is seeking  
7 to prevent a use or development of the land of another, whether  
8 or not a stay is sought by him, the landowner whose use or  
9 development is in question may, except in the event of an appeal  
10 by the municipality, petition the court to order the appellant  
11 to post bond as a condition to proceeding with the appeal. After  
12 the petition for posting a bond is presented, the court shall  
13 hold a hearing to determine if the filing of the appeal is  
14 frivolous. At the hearing, evidence may be presented on the  
15 merits of the case. It shall be the burden of the landowner to  
16 prove the appeal is frivolous. After consideration of all  
17 evidence presented, if the court determines that the appeal is  
18 frivolous, it shall grant the petition for posting a bond. The  
19 municipality shall not be required to post a bond. The right to  
20 petition the court to order the appellant to post bond may be  
21 waived by the appellee, but such waiver may be revoked by him if  
22 an appeal is taken from a final decision of the court. The  
23 question of the amount of the bond shall be within the sound  
24 discretion of the court. An order denying a petition for bond  
25 shall be interlocutory. An order directing the respondent to the  
26 petition for posting a bond to post a bond shall be  
27 interlocutory. If an appeal is taken by a respondent to the  
28 petition for posting a bond from an order of the court  
29 dismissing a land use appeal for refusal to post a bond, such  
30 responding party, upon motion of petitioner and after hearing in

1 the court having jurisdiction of land use appeals, shall be  
2 liable for all reasonable costs, expenses and attorney fees  
3 incurred by petitioner.

4 Section 5. Within the thirty days first following notice to  
5 the city solicitor of the filing of a land use appeal, if the  
6 appeal is from a board or agency of a municipality, the  
7 municipality and any owner or tenant of property directly  
8 involved in the action appealed from may intervene as of course  
9 by filing a notice of intervention, accompanied by proof of  
10 service of the same, upon each appellant or each appellant's  
11 counsel of record. All other intervention shall be governed by  
12 the Pennsylvania Rules of Civil Procedure.

13 Section 2. This act shall apply to appeals filed on or after  
14 the effective date of this act.

15 Section 3. This act shall take effect in 60 days.