

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0252.01 Duane Gall

SENATE BILL 00-096

STATE OF COLORADO

BY SENATOR Anderson; also REPRESENTATIVE McPherson.

REENGROSSED

A BILL FOR AN ACT

101 CONCERNING VESTED PROPERTY RIGHTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

For municipalities that have not yet adopted ordinances or resolutions specifying what constitutes a "site specific development plan" as required under 1999 legislation, causes statutory property rights to vest automatically under default provisions and prohibits such municipalities from adopting such ordinances or resolutions, effective January 1, 2001.

Clarifies application of the default provisions, eliminating provisions that imply a requirement for approval of site specific development plans through local legislative action.

Provides that rights vest upon the earliest to occur of:

- Adoption of an ordinance or resolution approving a site specific development plan; or
• The landowner's payment of money or conveyance of land to the local government as a condition for approval of the plan.

Specifically entitles a landowner to damages in an action based on retroactive application of a newly adopted land use ordinance or regulation.

1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. 24-68-102 (4) (a), Colorado Revised Statutes, is
3 amended to read:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 23, 2000

SENATE
Amended 2nd Reading
February 22, 2000

1           **24-68-102. Definitions.** As used in this article, unless the context  
2 otherwise requires:

3           (4) (a) (I) "Site specific development plan" means a plan that has  
4 been submitted to a local government by a landowner or such landowner's  
5 representative describing with reasonable certainty the type and intensity  
6 of use for a specific parcel or parcels of property. Such plan may be in  
7 the form of, but need not be limited to, any of the following plans or  
8 approvals: A planned unit development plan, a subdivision plat, a  
9 specially planned area, a planned building group, a general submission  
10 plan, a preliminary or general development plan, a conditional or special  
11 use plan, a development agreement, or any other land use approval  
12 designation as may be utilized by a local government.

13           (II) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-68-103:

14           (A) What constitutes a site specific development plan under this  
15 article that would trigger a vested property right shall be finally  
16 determined by the local government either pursuant to ordinance or  
17 regulation or upon an agreement entered into by the local government and  
18 the landowner; and

19           (B) The document that triggers such vesting shall be so identified  
20 at the time of its approval.

21 \_\_\_\_\_  
22 \_\_\_\_\_

23           **SECTION 2.** 24-68-103 (1), Colorado Revised Statutes, is  
24 amended to read:

25           **24-68-103. Vested property right - establishment - waiver.**

26 (1) (a) Each local government shall specifically identify, by ordinance or

1 resolution, the type or types of site specific development plan approvals  
2 within the local government's jurisdiction that will cause property rights  
3 to vest as provided in this article. Any such ordinance or resolution shall  
4 be consistent with the provisions of this article. Effective January 1,  
5 ~~2000~~ 2001, if a local government has not adopted an ordinance or  
6 resolution pursuant to section 24-68-102 (4) specifying what constitutes  
7 a site specific development plan that would trigger a vested property  
8 right, then rights shall vest upon the approval of any plan, plat, drawing,  
9 or sketch, however denominated, that is substantially similar to any plan,  
10 plat, drawing, or sketch listed in section 24-68-102 (4). A LOCAL  
11 GOVERNMENT THAT HAS NOT ADOPTED AN ORDINANCE OR RESOLUTION  
12 PURSUANT TO THIS PARAGRAPH (a) ON OR BEFORE JANUARY 1, 2001,  
13 SHALL THEREAFTER BE PROHIBITED FROM DOING SO.

14 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),  
15 a vested property right shall be deemed established with respect to any  
16 property upon the EARLIEST TO OCCUR OF:

17 (I) THE LANDOWNER'S PAYMENT OF MONEY OR OTHER  
18 CONSIDERATION, OTHER THAN A STANDARD APPLICATION FEE, TO THE  
19 LOCAL GOVERNMENT AS A CONDITION FOR THE APPROVAL OF A SITE  
20 SPECIFIC DEVELOPMENT PLAN;

21 (II) THE LANDOWNER'S DEDICATION, CONVEYANCE, OR TRANSFER  
22 TO THE LOCAL GOVERNMENT OF ANY LAND OR OTHER PROPERTY AS A  
23 CONDITION FOR THE APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN; OR

24 (III) THE EFFECTIVE DATE OF THE LEGAL ACTION, RESOLUTION, OR  
25 ORDINANCE THAT CONSTITUTES OR IS NECESSARILY PREDICATED UPON THE  
26 approval or conditional approval of a site specific development plan,

1 following notice and public hearing, by the local government in which the  
2 property is situated. IF THE LOCAL GOVERNMENT HAS ADOPTED AN  
3 ORDINANCE OR RESOLUTION PURSUANT TO PARAGRAPH (a) OF THIS  
4 SUBSECTION (1) ON OR BEFORE JANUARY 1, 2001, SUCH ORDINANCE OR  
5 RESOLUTION MAY PROVIDE THAT RIGHTS UNDER THIS ARTICLE SHALL BE  
6 DEEMED ESTABLISHED ONLY BY A SPECIFIC AND FORMAL DECLARATION  
7 THAT VESTING SHALL OCCUR, FOLLOWING NOTICE AND PUBLIC HEARING.  
8 IF THE LOCAL GOVERNMENT HAS NOT ADOPTED SUCH AN ORDINANCE OR  
9 RESOLUTION ON OR BEFORE SAID DATE, RIGHTS THAT WOULD OTHERWISE  
10 BE ESTABLISHED UNDER THIS ARTICLE SHALL BE DEEMED ESTABLISHED  
11 WITHOUT ANY ACTION OTHER THAN THE APPROVAL OF THE PLAN ITSELF.

12 (c) (I) A vested property right, ONCE ESTABLISHED PURSUANT TO  
13 PARAGRAPH (b) OF THIS SUBSECTION (1), shall attach to and run with the  
14 applicable property and shall confer upon the landowner the right to  
15 undertake and complete the development and use of said property under  
16 the terms and conditions of the site specific development plan including  
17 any amendments thereto. A local government may approve a site specific  
18 development plan upon such terms and conditions as may reasonably be  
19 necessary to protect the public health, safety, and welfare. Such  
20 conditional approval shall result in a vested property right, although  
21 failure to abide by such terms and conditions will result in a forfeiture of  
22 vested property rights.

23 (II) (A) IF THE LOCAL GOVERNMENT HAS ADOPTED AN ORDINANCE  
24 OR RESOLUTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) ON  
25 OR BEFORE JANUARY 1, 2001, SUCH ORDINANCE OR RESOLUTION MAY  
26 PROVIDE THAT a site specific development plan shall be deemed approved

1 upon the effective date of the local government legal action, resolution,  
2 or ordinance relating thereto. Such approval shall be subject to all rights  
3 of referendum and judicial review; except that the period of time  
4 permitted by law for the exercise of such rights shall not begin to run  
5 until the date of publication, in a newspaper of general circulation within  
6 the jurisdiction of the local government granting the approval, of a notice  
7 advising the general public of the site specific development plan approval  
8 and creation of a vested property right pursuant to this article. Such  
9 publication shall occur no later than fourteen days following approval.

10 (B) IF THE LOCAL GOVERNMENT HAS NOT ADOPTED AN ORDINANCE  
11 OR RESOLUTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) ON  
12 OR BEFORE JANUARY 1, 2001, APPROVAL OF A SITE SPECIFIC DEVELOPMENT  
13 PLAN SHALL NOT REQUIRE ANY LOCAL GOVERNMENT LEGAL ACTION,  
14 RESOLUTION, OR ORDINANCE AND SHALL NOT BE SUBJECT TO ANY NOTICE  
15 OR PUBLICATION REQUIREMENT.

16 **SECTION 3. Effective date - applicability.** This act shall take  
17 effect July 1, 2000, and shall apply to applications for approval of site  
18 specific development plans submitted on or after said date in any county  
19 or city and county with more than fifty thousand inhabitants, as  
20 determined by the most recently available federal census data, and any  
21 statutory or home rule city or town within such a county.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, and safety.