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New law requires training for planning/zoning members

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ENVIRONMENTAL LAW

The New York State General Municipal Law, General City Law, the Town Law and the Village Law have all been amended to require training for members of local planning boards and zoning boards of appeal (ZBA).

Chapter 662 of the Laws of 2006 went into effect on Jan. 1 and requires members of planning boards, ZBA and county planning boards to receive a minimum of four hours of training annually.

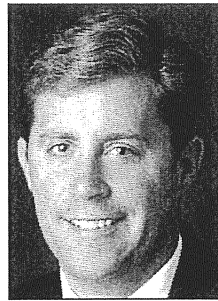
Previously, training and attendance at continuing education seminars was handled at the discretion of each individual municipal board. Many local planning boards and ZBAs implemented training programs and schedules to address planning and zoning issues, along with recent legislative and judicial developments. This level of training was largely dependent upon the discretion of the municipal board and the chairs of the respective planning boards.

The new requirements apply to each board member as well as alternates, with a few exceptions: Municipalities with populations larger than one million are exempt; and a municipal board can waive or modify the training, if it is determined to be in the community's best interest, by adopting a resolution. The waiver can be for all board members or on an individual basis, if a member has extensive professional experience or personal circumstances (e.g. medical emergency) preventing training attendance.

Opting out is not encouraged, however. If necessary, the municipality can extend the compliance deadline to allow the board member to catch up, or institute self-study programs.

The new law does not specify any particular training formats and training may be fulfilled through classroom or seminars, videos, on-site training or self-study. The municipal board for each community must determine what types of courses, providers and formats are most suitable.

Although the new law mandates training, it does not specify topics that must be covered. In general, since planning boards review myriad environmental issues on projects — ranging from environmental impacts (under the State Environmental Quality Review Act), wetlands, open space subdivision designs, green space set asides and landscaping, conservation easements, historic preservation and compliance with master plans — such topics will likely provide the basis for future training programs.



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Also, ZBA members will likely be offered courses on criteria for issuance of use and area variances, proper procedures on hearing appeals, and the standard review for ZBA decisions. Annual updates on legislative changes and judicial challenges (Article 78 actions, zoning and takings cases) are sure to become part of the land use training programs offered throughout the state.

The state will not certify providers and training programs; therefore, programs from existing and well established sources are likely to be heavily utilized. Organizations such as the NYS Association of Towns, Conference of Mayors, Association of Counties, the New York Planning Federation and the Department of State will probably offer a wide range of courses enabling local planning board and ZBA members to meet their requirements.

In the event that a board member fails to meet the minimum annual training requirement, he or she will not be eligible for reappointment to the board. If desired, the municipal board may take steps to remove a member prior to the expiration of his or her term, but appropriate legislative procedures and safeguards must be followed before doing so.

Significantly, the new requirements do not serve as a basis for a dissatisfied applicant or community resident to invalidate a board's action if one of its members has not complied with the training requirement. Rather, the requirement appears to be an effort to institute municipal training programs within communities throughout the state.

Record keeping related to the educational programs is also not addressed in the legislation; however, the municipal board may have planning and ZBA members submit paperwork to a municipal clerk in order to track or file annual compliance statements.

In the event that a member receives more than four hours of training in the same year, additional time may be carried over into the following years.

Municipalities may also determine whether their boards could be required to take additional training in excess of the state's requirements.

In light of the complexity of local planning and zoning issues that members face, some background training and annual updates should help make their job easier.

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