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### TRAINING FOR PLANNING AND ZONING BOARD MEMBERS

BY ANTHONY S. GUARDINO

New York lawyers have continuing legal education requirements, new teachers must obtain additional training after getting their licenses, and a variety of other workers, volunteers, and professionals in the state have their own continuing education obligations to meet.

Now, members of planning boards and zoning boards of appeals in New York—who make important decisions of interest to communities and property owners for both the short and long terms—also will have to keep up with developments in their field. Effective Jan. 1, 2007, a new law requires that they obtain at least four hours of training every year. Some municipalities on Long Island and elsewhere already require training, and many board members regularly seek out training voluntarily, but now state law clearly mandates annual training for all board members.

The new statute, Chapter 662,<sup>1</sup> amends sections of the General Municipal Law,<sup>2</sup> General City Law,<sup>3</sup> Town Law,<sup>4</sup> and Village Law<sup>5</sup> to set forth minimum training requirements for members of planning boards, zoning boards of appeals, and county planning boards (except for county staff acting as a county planning agency). Under the law, these officials—whose only

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#### Zoning & Land Use



legal qualifications to be appointed are that they be at least 18 years old, U.S. citizens, and residents of the municipality on whose board they are serving—are required to take four hours of training per year in a course or courses approved by their respective legislative bodies. The law also applies

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*Nothing in the statute prohibits local governments from requiring more than four hours of training from their local board members.*

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to people appointed as alternates to a board. It does not apply to cities with a population of 1 million or more, and members of planning commissions formed pursuant to General Municipal Law §234 also are exempt from the training requirements. In addition, municipalities may opt out of the training requirement—for particular

individuals or for all board members—if they feel it is in their best interests to do so.

#### Purpose of the Law

The state Legislature recognized<sup>6</sup> that under the state Constitution, cities, towns, and villages are given primary responsibility to regulate private land use. Moreover, these municipalities have been authorized to create and vest citizen planning and zoning boards with the authority to act on behalf of the municipal bodies in fulfilling their responsibilities. The actions taken by planning and zoning boards “have a profound impact on implementation of state and local land use policies and on individual landowners,” the Legislature observed. It also found that well considered, timely, and equitable land use decisions—rendered in accordance with the law—attract promoters of quality community development, including residential, commercial, agricultural, industrial, open space, recreational and main street projects.

Given that, the Legislature decided to establish minimum training standards for board members throughout the state.

#### Training Requirement

The statute broadly sets forth a four-hour-per-year training requirement for each board member. Beyond that, local governments have broad authority to interpret and apply the law.

For example, local governments

can determine what courses, training providers, and training formats are acceptable—and can decide that different rules are appropriate for different board members. Municipalities can require that training take place in classrooms or they can approve online courses (such as provided by the New York Municipal Insurance Reciprocal), other forms of distance learning, videos, or even self-study.

It should be noted that New York does not currently plan to certify providers or training programs. Local governments, however, can require training from providers such as their municipal attorney, a regional planning council, a county planning office, a state agency, a state association such as the New York Association of Towns, New York Conference of Mayors, New York Association of Counties or New York Planning Federation, or a college or other entity.<sup>7</sup>

Because of the wide range of courses and training available, there should not be a significant cost burden on either local officials or local governments as a result of the new law.

The new state law also does not declare what topic or topics must be covered in this training. Local governments might want to prepare a list of appropriate topics or they can leave it to board members to decide and then review the choices in the future to determine whether to be more directive.

The regulations governing continuing education for lawyers state that “One (1) hour of continuing legal education shall consist of at least 50 minutes of instruction, exclusive of introductory remarks, meals, breaks, or other noneducational activities.”

The statute imposing the new training requirement for planning and zoning board members does not indicate how much of an hour must actually be devoted to training

to count as an hour, and does not provide for any state regulations to be adopted to implement the statutory requirements. Thus, local governments should consider refining and defining the four-hour requirement themselves. Under the new law, training received by a member in excess of four hours in any one year may be carried over into a succeeding year to meet the training requirement of that year.

Another issue for local governments is how the training should be tracked. The statute does not answer this question, so local governments might want to require board members to keep track of their own training and submit annual certifications or statements of compliance, with appropriate back-up information, to the municipal clerk.<sup>8</sup>

### Penalties

Chapter 662 provides that a board member who does not meet the minimum training requirements is not eligible for reappointment to the board—the state statute contains no other penalty for failure to comply with this continuing education requirement. Importantly, however, local boards can adopt, preferably by local law or ordinance, a rule that provides for removal of board members prior to the expiration of their terms for failing to meet these training requirements.

The new statute is clear that no decision of a planning board or zoning board of appeals may be declared void or invalid because of a board member’s failure to comply with the training requirement.

### Next Steps

At this point, local governments should become familiar with the new statutory requirements, should consider what courses and topics they would like their board members to take, and should take other steps to

implement the training requirements, including defining the courses or topics that they want covered and the formats in which they would like the programs to be delivered.

It also may be appropriate to decide what requirements should be imposed on local board members who serve on more than one board; that is, whether meeting the four-hour requirement once can apply to multiple positions. Local governments that already require training for zoning and planning board members should amend their statutes to comport with the new state law.

Finally, local governments should recognize that the new state law sets a floor of four hours of training per year. Nothing in the statute prohibits them from requiring more than four hours of training from their local board members.



1. 2006 Sess. Laws N.Y. Chapter 662. For a discussion of the new law and its requirements, see <http://www.dos.state.ny.us/lgss/mandatorytraining.htm>.

2. General Municipal Law §239-c.

3. General City Law §§27, 81.

4. Town Law §§267, 271.

5. Village Law §§7-712, 7-718.

6. Legislative Memorandum relating to Ch. 662.

7. The New York Department of State provides links to many training providers at [www.dos.state.ny.us/lgss/training.htm](http://www.dos.state.ny.us/lgss/training.htm).

8. Local governments may decide that a “year” is their official year rather than a calendar year; that can help limit record-keeping difficulties.