Revisions to Uniform Construction Code Provide Expedited Inspections

Client Alert

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What You Need to Know

- New Jersey's Uniform Construction Code has been amended to provide for expedited inspections of building projects in the state.
- The revised construction code, upon implementation, will provide property owners and contractors with the option of utilizing an authorized private inspection company if the inspection process is delayed by public construction officials.
- The Department of Community Affairs is expected to adopt rules and regulations within the next 6 to 9 months to implement the revisions to the UCC, which will take effect immediately upon adoption of those rules and regulations.

By: Justine A. DelVecchio and Steven Firkser

On January 5, 2023, New Jersey Governor Phil Murphy signed into law an Act amending the state's Uniform Construction Code Act (UCC) to provide expedited construction inspections. With this Act, property owners and contractors will soon have available relief to ensure the smooth progress of construction when faced with overburdened public construction agencies who delay in performing inspections.

The Act provides that public construction agencies (identified in the Act as "enforcing agencies") must perform inspections within three business days after an inspection is requested. If a property owner or contractor has provided at least 24 hours written notice to an enforcing agency with a requested inspection date, and the agency cannot perform the requested inspection within three business days or on another acceptable date, the property owner or contractor may engage a private inspection company authorized by the Department of Community

Affairs (DCA) and may utilize that private inspection company to conduct all subsequent associated inspections. The property owner must notify the enforcing agency of this choice and provide information on the private inspection company.

Further, if the enforcing agency has demonstrated a repeated inability to conduct inspections within the required timeframes, as established by new regulations to be adopted, the property owner or contractor may request authorization from the DCA to use a private inspection company for future inspections. The DCA will then have fifteen business days to render an opinion on the matter and determine if the property owner or contractor can use a private inspection company for all or a portion of the needed inspections for the rest of the project.

A property owner cannot use a private inspection company which is affiliated with that owner or its contractor, and any use of a private inspection company is subject to the conflict of interest provisions of the UCC.

If warranted, the enforcing agency must provide a fee reconciliation to the property owner at the end of the project, to make sure the owner is not overcharged by the local agency if private inspectors are needed. The fee reconciliation will be based on the fees already paid minus any administrative costs for the enforcing agency and may not exceed the amount already paid for the project or the amount that the agency is permitted to charge for an inspection.

The enforcing agency must establish a process for ensuring that inspections are performed within three business days, including use of shared services agreements with other agencies or contracting with private on-site inspection agencies. The DCA will also require enforcing agencies to advise as to their staffing in an annual report to DCA, and DCA may impose penalties or other corrective action if the enforcing agency fails to maintain appropriate staffing levels or otherwise fails to comply with the Act.

The DCA will be adopting rules and regulations within the next 6 to 9 months to implement the Act, which will take effect immediately upon adoption of those DCA rules and regulations. It is anticipated that the Act and related regulations will provide improved and expedited inspections to avoid current delays in the construction process.

We will be tracking forthcoming DCA rules and regulations related to the revised UCC and will keep you apprised accordingly. Please contact the authors of this alert with questions or to discuss your specific circumstances.

Related Attorneys

Justine A. DelVecchio

Associate
973.577.1830
Email

Steven Firkser

Counsel
732.476.2388
Email