

No. 1988-45

AN ACT

SB 403

Amending the act of July 9, 1976 (P.L.919, No.170), entitled "An act providing for the approval or disapproval of applications for a permit relating to the construction or maintenance of improvements to real estate," further providing for driveway permits.

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

Section 1. Section 1 of the act of July 9, 1976 (P.L.919, No.170), entitled "An act providing for the approval or disapproval of applications for a permit relating to the construction or maintenance of improvements to real estate," amended May 2, 1986 (P.L.139, No.43), is amended to read:

Section 1. (a) A municipality which regulates the construction, erection, maintenance, operation or repair of buildings, structures or devices by means of an ordinance requiring the filing of an application, the payment of a fee and the issuance of a permit shall render a decision either approving or disapproving the application for a permit within 90 days after the application is filed unless the ordinance requires a decision within a lesser period of time, provided that any disapproval of the application shall be issued within said 90-day period containing a brief explanation setting forth the reasons for said disapproval and the manner in which the application can be corrected and/or modified to obtain the required approval. If no decision is rendered on the application within 90 days, the application shall be deemed to be approved and the permit shall be deemed to have been granted immediately, unless the applicant has agreed in writing to an extension of time. No agreement to extension of time for action may be made a part of an application form nor may any such agreement be required of any applicant under threat of denial of the application.

(b) No building permit shall be issued for any property which will require access to a highway under the jurisdiction of the Department of Transportation, unless the permit contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," before driveway access to a State highway is permitted. The department shall, within 60 days of the date of receipt of an application for a highway occupancy permit, (i) approve the permit, (ii) deny the permit, (iii) return the application for additional information or correction to conform with department regulations or (iv) determine that no permit is required in which case the department shall notify the municipality and applicant in writing. If the department shall fail to take any action within the 60-day period, the permit will be deemed to be issued. The permit shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. Neither the department

nor any municipality to which permit-issuing authority has been delegated under section 420 of the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. *Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the department.*

(c) As used in this section, "buildings, structures or devices" means anything constructed or erected with a fixed location on or in the ground including dwellings, offices, places of assembly, mobile homes, signs, walls, fences, or other improvements to real estate.

Section 2. This act shall take effect in 60 days.

APPROVED—The 30th day of March, A. D. 1988.

ROBERT P. CASEY