

## Revised Statute Clarifies Notice Requirements for Public Hearings

Article

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09.25.2023

Good news is on the horizon for developers and property owners, as a statute correcting a misguided court decision is set to go into effect on October 1, 2023.

On February 8, 2023, the Fourth District Court of Appeal released a notable decision that diverged from an established local government policy. Previously, local governments could continue an agenda item during the public hearing to a date certain without additional public notice. However, *Testa v. Town of Jupiter Island* held an ordinance *void ab initio* (at its inception) because the Town Commission postponed the matter during the hearing and did not republish notice.

In order to “clarify existing law”, the legislature has included the following provision in the notice requirements:

“(d) Consideration of the proposed municipal ordinance at a meeting properly noticed pursuant to this subsection may be continued to a subsequent meeting if, at the meeting, the date, time, and place of the subsequent meeting is publicly stated. No further publication, mailing, or posted notice as required under this subsection is required, except that the continued consideration must be listed in an agenda or similar communication produced for the subsequent meeting. This paragraph is remedial in nature, is intended to clarify existing law, and shall apply retroactively.” Fla. Stat. § 166.041 (3)(d).

This modification explicitly states that the revised statute is to apply *retroactively*, meaning that hearings held prior to October 1 which were continued to a date certain during a public hearing cannot be challenged for failure to re-publish the notice of hearing.

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