

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1320

By: Tibbs

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2001, Section 44-110, which relates to appeals from the board of adjustment; authorizing certain persons to appeal to the commission or council that has jurisdiction over certain territory affected by proposed improvement; making language gender neutral; stating that decision is final; authorizing an appeal to district court; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 44-110, is amended to read as follows:

Section 44-110. A. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, or any taxpayer or any officer, or department, ~~board or bureau of the municipality~~ to the commission or council that has jurisdiction over the territory affected by the proposed improvement. The decision of the commission or council shall be final. No appeal to district court in the county in which the situs of the municipality is located may be taken except from a final decision of the commission or council.

B. ~~The~~ In the event of an appeal to district court, the appeal shall be taken by filing with the municipal clerk and with the clerk of the board of adjustment, within the time limits which may be fixed by ordinance, a notice of appeal. The notice shall specify the grounds for the appeal. No bond or deposit for costs shall be required for such appeal.

C. Upon filing the notice of appeal, the ~~board of adjustment~~ commission or council shall forthwith transmit to the court clerk the original, or certified copies, of all papers constituting the record in the case, together with the order, decision or ruling of the ~~board~~ commission or council.

D. The appeal shall be heard and tried de novo in the district court. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

E. An appeal to the district court from the ~~board of adjustment~~ commission or council stays all proceedings in furtherance of the action appealed from, unless the ~~chairman~~ chair of the ~~board~~ commission or council, from which the appeal is taken, certifies to the court clerk, after the notice of appeal has been filed, that by reason of facts stated in the certificate the chair believes a stay would ~~in his opinion~~ cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the ordinance, and upon notice to the ~~chairman~~ chair of the ~~board~~ commission or council from which the appeal is taken, and upon due cause being shown.

F. The district court may reverse or affirm, wholly or partly, or modify the decision brought up for review. Costs shall not be allowed against the ~~board of adjustment~~ commission or council unless it shall appear to the district court that the ~~board~~ commission or council acted with gross negligence or in bad faith or with malice in making the decision appealed from. An appeal shall lie from the action of the district court as in all other civil actions.

SECTION 2. This act shall become effective July 1, 2003.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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