

21 GCA REAL PROPERTY CH. 62 SUBDIVISION LAW

ARTICLE 6 VARIANCES AND APPEALS

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§ 62601. Petition for Variances.

The Commission, on its own initiative, or upon the petition of any subdivider stating fully the grounds of the application and all the facts relied upon by the subdivider, may grant variances to the regulations of the Commission. Such petition shall be filed with the tentative plan of the subdivision. In the event the Commission shall find the following facts with respect to the petition for a variance, it may grant a variance under such terms and conditions as it may prescribe:

- (a) That there are special circumstances or conditions affecting said property.
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the subdivider.
- (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- (d) That the variance, if granted, will conform with the intent and purpose of the general or precise plans for the territory, and of this Chapter.

SOURCE: GC '18500.

§ 62602. Variance Subdivisions.

The Commission shall have the authority to review any prior division of parcels of land, whether for the purpose of lot parcelling or the establishment of a subdivision, presented to the Department of Land Management for recording as a subdivision under the provisions of this Chapter. The Commission may require the subdivider or owner to modify the arrangement, to improve access rights of way and easements, or to modify the size and shapes of lots and other improvements as a condition precedent to record the presentation as a subdivision. The decision of the Commission shall be final.

SOURCE: GC '18501.

§ 62603. Unit Development.

The standards and requirements of this Chapter may be modified by the Commission in the case of a plan and program for a new town, a complete community, or a neighborhood united, which in the judgment of the Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such deed restrictions or other legal provisions as will assure conformity to and achievement of the plan.

SOURCE: GC '18502.

§ 62604. Judicial Review.

- (a) Any order of the Commission shall become effective when notice thereof is delivered to the party or parties affected and, unless proceedings for judicial review are instituted as provided for in Subsection (b) of this Section, shall become final at the expiration of thirty (30) days thereafter.
- (b) If the decision of the Commission is not in accordance with law or is not supported by substantial evidence, the same may be set aside through an action instituted in the Superior Court brought by the party affected thereby. The subdivider shall not subdivide any land, or sell, lease, or offer for sale, any subdivision or proposed subdivision or any part thereof, or any lot, parcel or site therein, or commence or continue construction of any improvement relating thereto during the pendency of such action.
- (c) Review by the court shall be limited to the record procured before the Commission and, if the decision of the Commission is not according to law or supported by substantial evidence, the court shall return this matter to the Commission for further action in accordance with the evidence.

SOURCE: GC '18503. *Island* changed to *Superior* Court pursuant to P.L. 12-85.