

# WEST VIRGINIA CODE: §8A-5-12

## **§8A-5-12. Vested property right.**

(a) A vested property right is a right to undertake and complete the land development. The right is established when the land development plan and plat is approved by the planning commission and is only applicable under the terms and conditions of the approved land development plan and plat.

(b) Failure to abide by the terms and conditions of the approved land development plan and plat will result in forfeiture of the right.

(c) Subject to section ten-a, article thirteen-e, chapter sixteen of this code, the vesting period for an approved land development plan and plat which creates the vested property right is five years from the approval of the land development plan and plat by the planning commission.

(d) Without limiting the time when rights might otherwise vest, a landowner's rights vest in a land use or development plan and cannot be affected by a subsequent amendment to a zoning ordinance or action by the planning commission when the landowner:

(1) Obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project;

(2) Relies in good faith on the significant affirmative governmental act; and

(3) Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

(e) A vested right is a property right, which cannot be taken without compensation. A court may award damages against the local government in favor of the landowner for monetary losses incurred by the landowner and court costs and attorneys' fees resulting from the local government's bad faith refusal to recognize that the landowner has obtained vested rights.

(f) Any subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010, shall remain valid until July 1, 2012, or such later date provided for by the terms of the planning commission or county commission's local ordinance or for a longer period as agreed to by the planning commission or county commission. Any other plan or permit associated with the subdivision or land development plan or plat shall also be extended for the same time period: Provided, That the land development plan or plat has received at least preliminary approval by the planning commission or county commission by March 1, 2010.