

New Missouri Law Affects Municipal Control over Home Occupations

In the Dirt: A Real Estate Legal Update

By Lisa Johnson on December 20, 2022

A new Missouri law may be a new cause of concern for homeowners. The new law, which restricts the ability of local government to regulate home occupations with zoning ordinances or other regulations, may allow noxious businesses to become new neighbors. The law, created in response to people working from home during COVID-19, has likewise caused concern for municipalities across the state as they scramble to satisfy concerned homeowners. This law may go beyond its original intention of allowing work from home as became necessary during the pandemic, and it is especially troublesome for homeowners in dense housing urban areas who may be more likely to experience disturbances from home businesses.

The new law prevents zoning ordinances from regulating home-based work and businesses in a number of ways. Under this law, zoning ordinances and regulations may not prohibit consumer appointments within the home, restrict hours of operation, or prohibit structural modifications. For home-based businesses that provide goods or services, the law lifts the requirement of licensure or permit, further weakening the municipality's ability to regulate. The law leaves only a narrow exception for municipalities to adopt regulations to protect public health and safety, including traffic control. This lack of control might enable home businesses to disrupt residential areas.

Municipalities may not be able to regulate short-term rentals. Short-term leasing properties, such as those operating under Airbnb, are not restricted under the law as long as the home is primarily used for residential purposes. This has caused many homeowners concern and irritation, as short-term rentals are often cited by neighbors as noxious and noisy. Short-term leases may also increase standard rent amounts in certain areas, making it more difficult for current residents to affordably lease a home in the traditional sense.

Before the new law, municipalities were able to use zoning and planning restrictions to limit the location and distribution of short-term leases. They were also able to use permitting, licensure, and monetary penalties for non-compliance to ensure quality of life for residents. Municipalities that previously outlawed or restricted short-term rentals will now have to reevaluate their practices for preserving the peace in residential areas.

Homeowners' Associations may restrict these activities. Unlike municipalities, HOAs are not prevented by the new law from restricting work from home in their respective subdivisions so long as their governing documents provide for such restrictions. Declarations, covenants, and deed restrictions supersede the prohibitions against regulation provided in the new law. Homeowners may rely on their HOA and the governing documents for their neighborhoods to provide protection for their residential neighborhoods. The next installment in this series will provide more information about how restrictive covenants can work for an HOA.

**This blog was written with assistance from law clerk Adrianna Northrop.*

New
Missouri
Law Affects
Municipal
Control over
Home
Occupations