

Doing great things.

OTTENJOHNSON
ROBINSON NEFF + RAGONETTI

> [ottenjohnson.com](https://www.ottenjohnson.com)



OTTEN JOHNSON ALERT

New Rules for Getting Out of Town: Colorado Adds Provisions Governing Property Disconnections

November 2020 • [Andy Peters](#)

In a growing region like Colorado’s Front Range corridor, cities and towns often expand both upward and outward: upward through development and outward through annexation, bringing county land within their boundaries. For a landowner, moving property into a municipality can offer access to a range of services and assurances regarding development rights. Local governments can in turn count on additional tax revenue and corresponding commitments. But that new relationship doesn’t always work. When that happens, an annexation can be unwound through the less familiar process of “disconnection.” This fall, new legislative changes went into effect that will reshape the disconnection process for landowners looking to leave statutory cities and towns.

Under the old process, landowners could apply to the annexing municipality for an ordinance disconnecting their property and returning it to the county whence it came. That much remains the same. The changes, however, concern the land use entitlements the landowner may have secured during its time in the municipality: vested rights, particular zoning classifications, and the like.

First, a disconnecting property owner must now relinquish any statutory vested rights—that is, rights under Colorado’s Vested Rights Act that protect a landowner’s ability to develop a property in accordance with a particular approval (a site specific development plan or a development agreement). Vested rights can take a number of

forms but commonly protect the right to build a particular number of housing units or to include a specific mix of uses with a development. Under the new rules, those rights now expire, or must be relinquished, as soon as the land returns to the county. A disconnecting property owner now loses any prior protection.

Second, the statutory changes now prevent landowners from carrying on with the zoning they received while part of the municipality. Under the prior version of the statute, a landowner could continue to rely on the municipal zoning unless the county set about changing it. The new rules require counties to bring the disconnected properties under their own zoning within ninety days of the disconnection. They also prevent counties from applying any sort of automatic zoning classification to disconnected properties. That requirement applies irrespective of whether the landowner applies to the municipality for a disconnection or seeks a decree from a court.

What's more, the statute also allows counties to prevent enterprising landowners from pulling building permits and beginning construction during the gap between the disconnection and the imposition of county zoning. It does, however, allow counties to process subdivision applications before the new zoning is in place. Final approval can then occur concurrently with the adoption of the new zoning.

These changes aren't exactly groundbreaking, but they do reshape the calculus for landowners looking to leave statutory municipalities under certain circumstances. (The new language does not appear to apply to disconnections based on a failure to serve the annexed property or court-decreed disconnections from statutory towns.) In those circumstances, landowners can no longer rely on the entitlements they secured while part of the city or town. Upon departure, they will instead face counties' discretionary rezoning processes, which may or may not provide entitlements consistent with landowners' intentions for their properties. We therefore recommend exploring county intentions before pursuing a disconnection that could otherwise unexpectedly limit development options.

Otten Johnson attorneys in our [Real Estate](#) and [Land Use](#) practice group have substantial experience with development and governmental agreements. For more information on this Otten Johnson Alert or for help evaluating your current situation, contact any of the attorneys in the Real Estate or Land Use practice group. For a listing, [click here](#).

More Great Reads

RM Conservation Easement Law Blog

Current issues with conservation easement law.

[Read More](#)

Rocky Mountain Real Estate Blog

The latest real estate and land use news and updates.

[Read More](#)

Rocky Mountain Sign Law Blog

Regulatory, best practices, and other First Amendment news.

[Read More](#)

Our lawyers are pleased to present timely, topical issue alerts on the latest legal developments, trends and other subjects of interest to our clients and colleagues. Otten Johnson publishes Otten Johnson Alerts on a monthly basis. If you do not wish to receive future Otten Johnson Alerts, you may unsubscribe by clicking the "opt out" link below. This Otten Johnson Alert has been prepared for informational purposes only and does not constitute legal advice or the opinion of Otten Johnson. Receipt of this summary does not create an attorney-client relationship between you and Otten Johnson. You should not act or rely on any information in this article without seeking the advice of an attorney. Otten Johnson provides legal advice only after being engaged to do so by a client with respect to particular facts and circumstances.

Read our full disclaimer

950 Seventeenth Street, Suite 1600, Denver, CO 80202
Phone 303.825.8400 | Fax 303.825.6525 | ottenjohnson.com