

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 3-107 as follows:

6 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)
7 Sec. 3-107. Defendants.

8 (a) Except as provided in subsection (b) or (c), in any
9 action to review any final decision of an administrative
10 agency, the administrative agency and all persons, other than
11 the plaintiff, who were parties of record to the proceedings
12 before the administrative agency shall be made defendants. The
13 method of service of the decision shall be as provided in the
14 Act governing the procedure before the administrative agency,
15 but if no method is provided, a decision shall be deemed to
16 have been served either when a copy of the decision is
17 personally delivered or when a copy of the decision is
18 deposited in the United States mail, in a sealed envelope or
19 package, with postage prepaid, addressed to the party affected
20 by the decision at his or her last known residence or place of
21 business. The form of the summons and the issuance of alias
22 summons shall be according to rules of the Supreme Court.

23 No action for administrative review shall be dismissed for

1 lack of jurisdiction based upon the failure to name an
2 employee, agent, or member, who acted in his or her official
3 capacity, of an administrative agency, board, committee, or
4 government entity, where the administrative agency, board,
5 committee, or government entity, has been named as a defendant
6 as provided in this Section. Naming the director or agency
7 head, in his or her official capacity, shall be deemed to
8 include as defendant the administrative agency, board,
9 committee, or government entity that the named defendants
10 direct or head. No action for administrative review shall be
11 dismissed for lack of jurisdiction based upon the failure to
12 name an administrative agency, board, committee, or government
13 entity, where the director or agency head, in his or her
14 official capacity, has been named as a defendant as provided in
15 this Section.

16 If, during the course of a review action, the court
17 determines that an agency or a party of record to the
18 administrative proceedings was not made a defendant as required
19 by the preceding paragraph, then the court shall grant the
20 plaintiff 35 days from the date of the determination in which
21 to name and serve the unnamed agency or party as a defendant.
22 The court shall permit the newly served defendant to
23 participate in the proceedings to the extent the interests of
24 justice may require.

25 (b) With respect to actions to review decisions of a zoning
26 board of appeals ~~in a municipality with a population of 500,000~~

1 ~~or more inhabitants~~ under Division 13 of Article 11 of the
2 Illinois Municipal Code, "parties of record" means only the
3 zoning board of appeals and applicants before the zoning board
4 of appeals. The plaintiff shall send a notice of filing of the
5 action by certified mail to each other person who appeared
6 before and submitted oral testimony or written statements to
7 the zoning board of appeals with respect to the decision
8 appealed from. The notice shall be mailed within 2 days of the
9 filing of the action. The notice shall state the caption of the
10 action, the court in which the action is filed, and the names
11 of the plaintiff in the action and the applicant to the zoning
12 board of appeals. The notice shall inform the person of his or
13 her right to intervene. Each person who appeared before and
14 submitted oral testimony or written statements to the zoning
15 board of appeals with respect to the decision appealed from
16 shall have a right to intervene as a defendant in the action
17 upon application made to the court within 30 days of the
18 mailing of the notice.

19 (c) With respect to actions to review decisions of a
20 hearing officer or a county zoning board of appeals under
21 Division 5-12 of Article 5 of the Counties Code, "parties of
22 record" means only the hearing officer or the zoning board of
23 appeals and applicants before the hearing officer or the zoning
24 board of appeals. The plaintiff shall send a notice of filing
25 of the action by certified mail to each other person who
26 appeared before and submitted oral testimony or written

1 statements to the hearing officer or the zoning board of
2 appeals with respect to the decision appealed from. The notice
3 shall be mailed within 2 days of the filing of the action. The
4 notice shall state the caption of the action, the court in
5 which the action is filed, and the name of the plaintiff in the
6 action and the applicant to the hearing officer or the zoning
7 board of appeals. The notice shall inform the person of his or
8 her right to intervene. Each person who appeared before and
9 submitted oral testimony or written statements to the hearing
10 officer or the zoning board of appeals with respect to the
11 decision appealed from shall have a right to intervene as a
12 defendant in the action upon application made to the court
13 within 30 days of the mailing of the notice. This subsection
14 (c) applies to zoning proceedings commenced on or after the
15 effective date of this amendatory Act of the 95th General
16 Assembly.

17 (d) The changes to this Section made by this amendatory Act
18 of the 95th General Assembly apply to all actions filed on or
19 after the effective date of this amendatory Act of the 95th
20 General Assembly.

21 (Source: P.A. 95-321, eff. 8-21-07; 95-831, eff. 8-14-08.)