

Legislative vs. Quasi-judicial Functions of Local Government

Local government boards such as the City Council have different functions. Generally, the City Council makes decisions and takes final actions, which fall into two main categories - those which are legislative in nature and those which are quasi-judicial. Depending upon the nature of the decision and the type of hearing, the City Council may act either in a **legislative** capacity or in a **quasi-judicial** capacity. Future Land Use Map (FLUM) amendments are legislative decisions of the City Council. In contrast, when the City Council rezones property, as it often does after the FLUM is amended or as a companion to the FLUM amendment, it is usually acting in a quasi-judicial capacity.

What is the difference between a legislative decision and a quasi-judicial decision?

It is the type and character of the hearing which determines whether the actions of the City Council are legislative (policy-making) or quasi-judicial (policy implementation or policy application). Legislative action results in the *formulation* of a general rule or policy and allows broad discretion in making the decision. Quasi-judicial action results in the *implementation or application* of a general rule or policy and allows less room for discretion to be exercised, since the decision **must** be based on competent, substantial evidence.

It is important to understand the difference between these two types of decisions because, in the event a decision is challenged, the standard of review used by a court on appeal is different, depending on whether the final action is legislative or quasi-judicial in nature. The appellate review of a legislative decision such as a FLUM amendment results in a new proceeding wherein parties have the opportunity to present testimony, evidence and witnesses to a new decision-maker. The standard of review which applies to a legislative decision is the "fairly debatable" standard; as its name implies, this is a very deferential standard that generally operates to prevent a court from substituting its judgment for that of the City Council. The standard of review which applies to a quasi-judicial decision is much less deferential and based entirely on the record of the proceedings before the City Council. The court will look at the record to determine 3 things: (1) whether there is competent, substantial evidence to support the decision; (2) whether the City Council observed the essential requirements of law; and (3) whether procedural due process was provided. If the court finds that any one of these 3 requirements has not been met, it will remand the matter back to the City Council for further action.