S T A T E O F N E W Y O R K

6454

I N S E N A T E

January 24, 2014

Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to consultation with affected parties on certain projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 16 of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, subdivisions 2 and 3 as amended by chapter 732 of the laws of 1990 and subdivision 5 as amended and subdivision 6 as added by chapter 847 of the laws of 1971, is amended to read as follows:

S 16. Cooperation with municipalities. (1) In effectuating the purposes of this act, the corporation and community advisory committees created pursuant to section four of this act shall work [closely, consult and cooperate] DIRECTLY with local elected officials [and], community leaders AND SPECIFICALLY AFFECTED PARTIES at the earliest practicable time, INCLUDING BEFORE PROJECTS ARE PROPOSED, DURING THEIR DEVELOPMENT AND WHEN THEY ARE PRESENTED TO THE GENERAL PUBLIC. WHENEVER A PROJECT IS PROPOSED, AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED PROJECT, INCLUDING, WITHOUT LIMITATION: BOARD MEETINGS, BOARD APPROVALS, PUBLIC MEETINGS AND PUBLIC HEARINGS THE CORPORATION AND COMMUNITY ADVISORY COMMITTEES SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH ALL AFFECTED PARTIES, INCLUDING "SPECIFICALLY AFFECTED PARTIES" AS DEFINED BELOW. FOR PURPOSES OF THIS ACT, THE TERM "SPECIFICALLY AFFECTED PARTIES" SHALL HAVE THE FOLLOWING MEANING: (A) CURRENT TENANTS OR OCCUPANTS OF THE PROPOSED PROJECT SITE IN QUESTION, (B) ALL ELECTED OFFICIALS THAT GEOGRAPHICALLY REPRESENT THE PROPOSED PROJECT SITE IN QUESTION, (C) ALL LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH LAND USE/ZONING REVIEW DUTIES WITHIN THE PROPOSED PROJECT SITE IN QUESTION, (D) THE COMMUNITY, MINIMALLY OPERATIONALIZED AS RESIDENTS WHO LIVE WITHIN A FIVE MILE RADIUS OF THE PROPOSED PROJECT SITE IN QUESTION AND (E) COMMUNITY BASED ORGANIZATIONS WHO ARE PRINCIPALLY BASED IN THE CATCHMENT AREA THAT IS CONCURRENT WITH THE PROPOSED PROJECT SITE IN QUESTION. THE TERM

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13660-02-4

"DIRECT AND PROACTIVE CONSULTATION" SHALL MEAN THE FOLLOWING: THE CORPORATION AND COMMUNITY ADVISORY COMMITTEES SHALL REACH OUT TO ALL SPECIFICALLY AFFECTED PARTIES WHEN THE PROJECT IS BEING CONTEMPLATED, DEVELOPED AND PROPOSED AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED PROJECT VIA: FIRST CLASS MAIL, E-MAIL AND PHONE, WHERE PRACTICABLE; FURTHER, AT EACH STAGE OF THE PROPOSED PROJECT IN QUESTION IN PERSON COMMUNITY PLANNING MEETINGS MUST BE HELD WITH ALL CURRENT TENANTS OF THE SITE IN QUESTION, ELECTED OFFICIALS AND LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH LAND USE/ZONING REVIEW DUTIES. SUCH COMMUNITY PLANNING MEETINGS, AT A MINIMUM, MUST PROVIDE EACH PARTY WITH AN OPPORTUNITY TO PROPOSE AFFIRMATIVE, MODIFIED OR ENTIRELY DIFFERENT PLANS THAN THOSE CURRENTLY UNDER CONSIDERATION. IN ADDITION, COMPLEMENTARY CONSULTATION STEPS MUST ALSO BE TAKEN TO REACH THE GENERAL PUBLIC, WHICH SHALL INCLUDE, WITHOUT LIMITATION: DISTRIBUTING FLYERS THAT DESCRIBE THE PROPOSED PROJECT IN THE AFFECTED AREA, ERECTING LARGE SIGNAGE CONTAINING PROJECT DETAILS AT THE PROPOSED PROJECT SITE IN QUESTION, ATTENDING AND SPEAKING AT COMMUNITY MEETINGS WHERE APPROPRIATE AND TAKING OUT FULL PAGE ADVERTISEMENTS IN NO LESS THAN TWO LOCAL PAPERS THAT ARE LIKELY TO REACH THE AFFECTED PARTIES. The corporation shall give primary consideration to local needs and desires and shall foster local initiative and participation in connection with the planning and development of its projects AT ALL STAGES. Wherever possible, activities of the corporation shall be coordinated with local urban renewal and other community projects, and the corporation shall assist localities in carrying out such projects. Consideration shall also be given to local and regional goals and policies as expressed in urban renewal, community renewal and local comprehensive land use plans and regional plans.

(2) Except with respect to a project consisting in whole or in part of real property acquired by the corporation pursuant to section fourteen of this act, before commencing the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of any project: (a) upon adoption of the general project plan, the corporation shall file a copy of such plan, including the findings required pursuant to section ten of this act, in its corporate offices and in the office of the clerk of any municipality in which the project is to be located, AS WELL AS WITH ALL "SPECIFICALLY AFFECTED PARTIES" AS DEFINED ABOVE. Upon request, any other person shall be furnished with a digest of such plan; (b) pursuant to authorization from the chief executive officer of the corporation, which authorization may be given prior to the adoption of such plan by the corporation, the corporation shall: (i) publish in [one newspaper] TWO NEWSPAPERS of general circulation within the municipality, (ii) provide to the chief executive officer of the municipality within which the project is located, and (iii) in any city having a population of one million or more, [provide to] ENGAGE IN DIRECT AND PROACTIVE CONSULTATION, AS DEFINED ABOVE, WITH ALL SPECIFICALLY AFFECTED PARTIES, INCLUDING any community board in which the project will be located, INCLUDING BY PROVIDING a notice that such plan will be filed upon its adoption by the corporation and that digests thereof will be available, which notice shall also state that a public hearing will be held to consider the plan at a specified time and place on a date not less than [ten] SIXTY days after such publication; THE SIXTY DAY PERIOD WILL COMMENCE WHEN THE COMMUNITY BOARDS, AFFECTED TENANTS AND ELECTED OFFICIALS ALL CONFIRM WITH THE CORPORATION THAT THEY HAVE RECEIVED NOTICE; (c) the corporation shall conduct a public hearing pursuant to such notice, AND SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH "SPECIFICALLY AFFECTED PARTIES" FOR THE FULL SIXTY DAY PERIOD TO ENSURE

MAXIMUM PARTICIPATION AT SUCH HEARING; provided that such public hearing shall not take place before the adoption or the filing of such plan by the corporation; (d) [upon] ALL TESTIMONY RECEIVED AT THE HEARING, WHETHER WRITTEN OR DELIVERED ORALLY AND INCLUDING WRITTEN TESTIMONY SUBMITTED FOR A PERIOD OF THIRTY DAYS AFTER SUCH HEARING SHALL BE REVIEWED AND ACTED ON BY THE CORPORATION. THE CORPORATION SHALL RESPOND TO EACH SUBSTANTIVE COMMENT IN WRITING, INCLUDING ALL SUBSTANTIVE NEGATIVE COMMENTS AND SHALL SHARE SUCH RESPONSE DOCUMENT WITH ALL "SPECIFICALLY AFFECTED PARTIES". IF A SIGNIFICANT AMOUNT OF SUBSTANTIVE NEGATIVE COMMENTS ARE RECEIVED, THE CORPORATION WILL, AFTER DUE CONSIDERATION OF SUCH TESTIMONY AND COMMENT, AFFIRM, MODIFY OR WITHDRAW THE PLAN IN THE MANNER PROVIDED FOR THE INITIAL FILING OF SUCH PLAN IN PARAGRAPH (A) OF THIS SUBDIVISION. HOWEVER, BEFORE THE CORPORATION AFFIRMS THE PLAN IT MUST HOLD A PUBLIC MEETING WITH THIRTY DAYS NOTICE AND DIRECT AND PROACTIVE CONSULTATION WITH "SPECIFICALLY AFFECTED PARTIES". AT SUCH MEETING, THE CORPORATION MUST EXPLAIN WHY THEY HAVE NOT MODIFIED OR WITHDRAWN THE PLAN IN RESPONSE TO SUBSTANTIVE NEGATIVE COMMENTS. UPON a written finding of the chief executive officer of the corporation that no substantive negative testimony or comment has been received at such public hearing, NOR IN THE THIRTY DAY WRITTEN COMMENT PERIOD THEREAFTER, such plan shall be effective at the conclusion of such [hearing; provided, however, that if any substantive negative testimony or comment is received at such public hearing, the corporation may, after due consideration of such testimony and comment, affirm, modify or withdraw the plan in the manner provided for the initial filing of such plan in paragraph (a) of this subdivision] TIMEFRAME.

(3) After DIRECT AND PROACTIVE consultation with local officials, as provided in subdivision one of this section, the corporation and any subsidiary thereof shall, in constructing, reconstructing, rehabilitating, altering or improving any project, comply with the requirements of local laws, ordinances, codes, charters or regulations applicable to such construction, reconstruction, rehabilitation, alteration or improvement, provided however, that when, in the discretion of the corporation, such compliance is not feasible or practicable, the corporation and any subsidiary thereof shall comply with the requirements of the state building construction code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement. In those circumstances where, in the discretion of the corporation, such compliance with local laws, ordinances, codes, charters or regulations is not feasible or practicable, and in the case of any project where the corporation intends to acquire real property pursuant to section thirteen of this act, the requirements of subdivision two of this section shall be complied with; provided, however, that (a) the corporation shall provide a copy of the plan to the chief executive officer of any municipality within which the project is to be located, the chairman of the planning board or commission of any such municipality, or if there is no planning board or commission, to the presiding officer of the local governing body and in any city having a population of one million or more, to any community board in which the project is located, and the public hearing to consider the plan required pursuant thereto shall be held on thirty days notice following adoption of the plan by the corporation; SUCH PUBLIC HEARING SHALL CONFORM TO ALL OF THE DIRECT AND PROACTIVE CONSULTATION REQUIREMENTS AND THE PUBLIC HEARING REQUIREMENTS AS DEFINED IN SUBDIVISIONS ONE AND TWO OF THIS SECTION; (b) any person shall have the opportunity to present written

comments on the plan within thirty days after the public hearing; (c) any municipality within which the project is to be located, by majority vote of its planning board or commission, or in the event there is no planning board or commission, by majority vote of its local governing body, may recommend approval, disapproval or modification of the plan, which recommendation shall be submitted in writing to the corporation within thirty days after such hearing; and (d) after due consideration of such testimony and comments and municipal recommendations, if any, the corporation may affirm, modify or withdraw the plan in the manner provided for the initial filing of such plan in paragraph (a) of subdivision two of this section, provided, however that in the event any such municipality has recommended disapproval or modification of the plan, as provided herein, the corporation may affirm the plan only by a vote of two-thirds of the directors thereof then in office. No municipality shall have power to modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, alteration or improvement of any project of the corporation or of any subsidiary thereof, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority, approval, permit or certificate from such municipality in relation to the work being done, and the doing of any such work by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof; nor shall any municipality have power to require the corporation or any subsidiary thereof, or lessee therefrom or successor in interest thereto, to obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from such municipality as a condition of owning, using, maintaining, operating or occupying any project acquired, constructed, reconstructed, rehabilitated, altered or improved by the corporation or by any subsidiary thereof. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any such project with local requirements for operation and maintenance, affecting the health, safety and welfare of the occupants thereof, provided, however, that such compliance does not require changes, modifications or additions to the original construction of such project.

(4) Each municipality or political subdivision, including but not limited to a county, city, town, village or district, in which any project of the corporation or of any subsidiary thereof is located, shall provide for such project, whether then owned by the corporation, any subsidiary thereof or any successor in interest thereto, police, fire, sanitation, health protection and other municipal services of the same character and to the same extent as those provided for other residents of such municipality or political subdivision.

(5) Notwithstanding the provisions of any general, special or local law or charter, any municipality or any public corporation is hereby empowered to purchase or lease for a term not exceeding ninety-nine years a civic project, upon such terms and conditions as may be agreed upon by such municipality or such public corporation and the corporation. No agreement for such purchase or lease shall be deemed to be a

contract for public work or purchase within the meaning of the general municipal law. Nothing contained in this subdivision shall be deemed to amend or supersede any other provision of law requiring a vote of the qualified voters of any school district upon a proposed expenditure of funds or incurring of indebtedness by such school district.

(6) In carrying out any project, the corporation and its subsidiaries shall be empowered to enter into contractual agreements with municipalities and public corporations with respect to the furnishing of any community, municipal or public facilities or services necessary or desirable for such project, and any municipality or public corporation is hereby authorized and empowered, notwithstanding any other law, to enter into such contractual agreements with the corporation and its subsidiaries and to do all things necessary to carry out its obligations under the same.

S 2. This act shall take effect immediately.