

STATE OF NEW YORK

1995

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARNWELL, DE LA ROSA, REYES, PICHARDO, TAYLOR, CRUZ, FRONTUS, DAVILA, SEAWRIGHT -- read once and referred to the Committee on Cities

AN ACT making a community boards decision regarding the denial of an application of uniform land use review procedures final and binding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. (a) (i) Notwithstanding any provision of law to the contra-
2 ry, within cities having a population of 200,000 or greater as well as
3 cities within all counties covered by the Emergency Tenant Protection
4 Act of 1974 with a population of 50,000 or greater and that have or are
5 governed by a land use process similar to the New York City Uniform Land
6 Use Review Procedure or a process otherwise involving a local community
7 board or its equivalent included in land use decisions, such local
8 community board's decision to deny any application to rezone or alter
9 the use and/or size, of such property shall be final and binding on any
10 applicant and shall constitute a final and binding denial of such appli-
11 cation for a rezoning or alteration of property where such application
12 seeks the rezoning or alteration of property use and/or size for a resi-
13 dential project offering for sale or rental any units to persons or
14 families with incomes at or above 60% of the area median income for the
15 zip code in which the property is located. If the rezoning or alteration
16 of property proposed, proposes to result in the construction of any
17 residential housing project offering for sale or rental any units to
18 persons or families with incomes at or above 60% of the area median
19 income for the zip code in which the property is located, the community
20 board's or its equivalent's denial of such application shall be final,
21 provided that the community board or its equivalent bases its denial of
22 the application on any of the following grounds:

23 (A) Following a public hearing and the opportunity to submit testimony
24 and other materials, the local community board determines that, based on

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

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1 the area median income for the zip code to which the application
2 pertains, any rezoning or property use alteration resulting from the
3 granting of the application would not result in the construction of
4 housing, on average, affordable to 50% or more of residents residing in
5 the zip code at the time of the application; for the purpose of this
6 subsection, housing is "affordable" if it meets the federal standard of
7 costing a tenant or homeowner no more than 30% of his or her income for
8 rent or mortgage payments, including the cost of utilities;

9 (B) Following a public hearing and the opportunity to submit testimony
10 and other materials, the local community board determines that any
11 rezoning or property use alteration resulting from the granting of the
12 application would perpetuate discriminatory housing patterns under the
13 standards set forth in the federal affirmatively furthering fair housing
14 regulation or the federal disparate impact rule;

15 (C) Following a public hearing and the opportunity to submit testimony
16 and other materials, the local community board determines that any
17 rezoning or property use alteration resulting from the granting of the
18 application would result in a net population increase of 5% or greater
19 within the zip code to which the application pertains and that current
20 public infrastructure within the zip code cannot support such a popu-
21 lation increase; or

22 (D) Following a public hearing and the opportunity to submit testimony
23 and other materials, the local community board determines that any
24 rezoning or property use alteration would result in displacement of more
25 than 500 residents or 100 employees working within the zip code to which
26 the application pertains.

27 (ii) For the avoidance of doubt, a local community board or its equiv-
28 alent shall have the power of denial with final and binding effect
29 created under this section only if it denies an application based upon
30 any of the criteria set forth above.

31 (b) For the purposes of this section, the area median income for a zip
32 code shall be established by the United States department of housing and
33 urban development or a successor agency.

34 (c) In the event the property is located in multiple zip codes, the
35 zip code with the lesser area median income shall be used for the
36 purposes of this section.

37 § 2. This act shall take effect immediately and shall apply to appli-
38 cations received on or after such effective date.