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

1927

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law, in relation to permitting towns and villages in the Peconic Bay region to assess special development fees in connection with the issuance of building permits

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

Section 1. Legislative findings. Local governments in the Peconic Bay region have undergone an unprecedented rate of development over the past decade. The number of new residential housing units has increased by 12.5% to more than 86,000 housing units from 1990 to 2000. In the town of Southampton, 277 building permits for new residential housing units were issued in 1990. In 2000, 735 such permits were issued. Year round population has also increased in the Peconic Bay region, reaching 120,000 residents in 2000. Nearly half of all dwellings located in the Peconic Bay region are second homes. Consequently, not only has the year round population increased, but the seasonal population for the region has also dramatically risen. During the summer, the seasonal population often triples to 350,000 people.

Rapid development, increases in housing units, increases in year round population, and increases in seasonal population have resulted in significant stress to existing community infrastructure and increased demand for new infrastructure. Such impacts have included crumbling highways, a greater demand for community facilities such as police stations, fire stations, community centers, and recreational facilities, and a greater need for school facilities.

More than a third of the total land area in the Peconic Region remains available for development. Thus, adverse impacts to existing highways and increased demand for community and school facilities will continue well into the future as the region reaches full buildout.

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

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It has been well established by several planning studies that residential development does not pay for itself through the generation of new real property taxes. It is generally accepted that for every dollar of new tax revenue generated by new residential development, $1.30 is required to provide supporting services and infrastructure. Therefore, the recent development boom in the Peconic Bay region has resulted in an increased demand for services and new infrastructure and overstressing of existing infrastructure.

Local governments are now considering large capital expenditures for highway reconstruction, community facilities, and new schools. Many such projects have already been approved. These capital outlays will cause significantly higher property tax levies.

In summary, the rapid rate of development is stressing existing infrastructure past its limits as well as creating a demand for new infrastructure. In turn, this will result in skyrocketing tax levies, unless alternative funding sources are implemented.

Other communities across the country have addressed the infrastructure demands associated with overdevelopment by instituting special development or impact fees to help to pay for such increasing infrastructure demands. Such fees impose a portion of the financial responsibility on the new development which created the need for additional infrastructure, rather than solely all real property taxpayers at large. In these communities, the institution of impact or special development fees has resulted in the provision of needed infrastructure while maintaining stable property taxes. Such a system provides for a fairer assessment of the financial responsibility relating to infrastructure for these communities.

This act permits the Peconic Bay region local governments to institute a system of certain impact fees in order to fairly distribute the financial responsibilities for the increased need for infrastructure associated with new development.

S 2. The town law is amended by adding a new section 64-k to read as follows:

S 64-K. SPECIAL DEVELOPMENT FEES FOR BUILDING PERMITS AUTHORIZED IN THE PECONIC BAY REGION. 1. (A) FOR THE PURPOSES OF THIS SECTION, THE TERM "PECONIC BAY REGION" SHALL HAVE THE SAME MEANING AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-FOUR-E OF THIS ARTICLE.

(B) FOR THE PURPOSES OF THIS SECTION, "SUBSTANTIAL IMPROVEMENT" SHALL MEAN AN INCREASE OF FIFTY PERCENT OR MORE IN THE TOTAL SQUARE FOOTAGE OF AN EXISTING BUILDING OR STRUCTURE.

2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE TOWN BOARD OF ANY TOWN IN THE PECONIC BAY REGION, AND THE VILLAGE BOARD OF ANY VILLAGE IN THE PECONIC BAY REGION SHALL BE AUTHORIZED TO IMPOSE SPECIAL DEVELOPMENT FEES ON THE ISSUANCE OF A BUILDING PERMIT FOR THE FOLLOWING PURPOSES: (A) COMMUNITY FACILITIES DEVELOPMENT; (B) TRAFFIC MITIGATION; AND (C) SCHOOL FACILITIES.

3. THE AMOUNT OF SUCH FEES SHALL BE SET BY THE TOWN OR VILLAGE BOARD AND SHALL BE REASONABLY RELATED TO THE ACTUAL NEED FOR SUCH SERVICES, PROGRAMS OR FACILITIES.

4. EACH TOWN OR VILLAGE WHICH ESTABLISHES THE SPECIAL DEVELOPMENT FEES AUTHORIZED BY THIS SECTION SHALL CREATE A TRUST FUND FOR EACH TYPE OF SPECIAL DEVELOPMENT FEE. ALL FEES SHALL BE DEPOSITED IN THE APPROPRIATE TRUST FUND.

5. IN THE CASE OF THE COMMUNITY FACILITIES TRUST FUND AND THE TRAFFIC MITIGATION TRUST FUND, THE TOWN OR VILLAGE SHALL USE SUCH FUNDS EXCLUSIVELY FOR THE PURPOSE FOR WHICH THE FUND WAS ESTABLISHED.

6. THE COMMUNITY FACILITIES TRUST FUND SHALL BE UTILIZED FOR THE ACQUISITION OF LAND, NEW CONSTRUCTION, OR THE EXPANSION OF EXISTING FACILITIES REQUIRED TO PROVIDE POLICE SERVICES, FIRE SERVICES, EMERGENCY SERVICES, LIBRARIES, MUSEUMS, RECREATION, YOUTH SERVICES, SENIOR SERVICES, AND OTHER SIMILAR SERVICES PROVIDED DIRECTLY OR INDIRECTLY BY LOCAL GOVERNMENT.

7. THE TRAFFIC MITIGATION TRUST FUND SHALL BE UTILIZED FOR THE IMPROVEMENT, REPAIR, AND RECONSTRUCTION OF EXISTING HIGHWAYS, THE CONSTRUCTION OF BICYCLE PATHS, THE IMPROVEMENT OF RAILROAD STATIONS, THE PROVISION OF BUS TRANSPORTATION, AND OTHER SIMILAR ALTERNATIVE MEANS OF TRANSPORTATION WHICH WOULD RESULT IN THE REDUCTION OR MITIGATION OF AUTOMOBILE AND TRUCK TRAFFIC.

8. EACH YEAR, AS PART OF THE BUDGET ADOPTED BY THE TOWN OR VILLAGE, THE TOWN BOARD OR VILLAGE BOARD, AS THE CASE MAY BE, SHALL APPROVE A PLAN FOR THE USE OF SUCH COMMUNITY FACILITIES AND TRAFFIC MITIGATION TRUST FUNDS. SUCH PLAN MAY ONLY BE AMENDED DURING THE FISCAL YEAR AFTER A PUBLIC HEARING, FOR WHICH NOTICE SHALL BE PROVIDED IN THE SAME MANNER AS IS REQUIRED FOR THE ADOPTION OF A LOCAL LAW. AN ADVISORY COMMITTEE SHALL BE ESTABLISHED OF NOT MORE THAN SEVEN MEMBERS TO ASSIST THE TOWN OR VILLAGE, AS THE CASE MAY BE, IN THE PREPARATION AND AMENDMENT OF SUCH PLANS FOR THE USE OF SUCH FUNDS.

9. IN THE CASE OF THE SCHOOL FACILITIES TRUST FUND, THE TOWN OR VILLAGE, AS THE CASE MAY BE, SHALL KEEP AN ACCOUNT AS TO THE LOCATION OF THE PROPERTY FROM WHICH EACH FEE WAS GENERATED. SUCH FEE SHALL BE CREDITED TO THE SCHOOL DISTRICT FROM WHICH THE FEE WAS GENERATED. ON FEBRUARY FIRST OF EACH YEAR, THE TOWN OR VILLAGE SHALL TRANSFER TO EACH SCHOOL DISTRICT THE FUNDS GENERATED FROM THE PREVIOUS CALENDAR YEAR. SCHOOL DISTRICTS SHALL PLACE SUCH FUNDS IN A TRUST FUND AND THE PROCEEDS OF SUCH FUND SHALL ONLY BE UTILIZED FOR THE CONSTRUCTION OR RECONSTRUCTION OF NEW OR EXPANDED SCHOOL FACILITIES.

10. WHEN A TOWN OR VILLAGE SHALL ESTABLISH ONE OR MORE OF THE SPECIAL DEVELOPMENT FEES AUTHORIZED BY THIS SECTION, SUCH TOWN OR VILLAGE SHALL ALSO BE AUTHORIZED TO EXEMPT AFFORDABLE HOUSING UNITS FROM THE PAYMENT OF SUCH FEES. THE TERM "AFFORDABLE HOUSING" SHALL BE DEFINED BY THE TOWN OR VILLAGE, BY LOCAL LAW.

S 3. This act shall take effect immediately.