

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the general city law, in relation to requiring in a city having a population of one million or more, that building developments either comply with present law respecting abutting mapped street access or, pursuant to requirements of a special purpose district set forth in zoning resolution, comply with satisfactory traffic control and street improvement plans providing vehicular access

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

1     Section 1. Subdivision 2 of section 36 of the general city law, as  
2     amended by chapter 815 of the laws of 1984, is amended to read as  
3     follows:  
4     2. A city having a population of one million or more. No public munic-  
5     ipal street utility or improvement shall be constructed by any city  
6     having a population of one million or more in any street or highway  
7     until it has become a public street or highway and is duly placed on the  
8     official map or plan, with the exception that a city may construct  
9     improvements and provide services to any public way (mapped or unmapped)  
10    if the public way has been open and in use to the public for a minimum  
11    of ten years. The existence of the public way must be attested to by  
12    documents satisfactory to the municipality, such as reports of city  
13    agencies providing municipal services. No certificate of occupancy shall  
14    be issued in such city for any building unless a street or highway  
15    giving access to such structure has been duly placed on the official map  
16    or plan, which street or highway, and any other mapped street or highway  
17    abutting such building or structure shall have been suitably improved to  
18    the satisfaction of the department of transportation of the city in  
19    accordance with standards and specifications approved by such department  
20    as adequate in respect to the public health, safety and general welfare

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

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1 for the special circumstances of the particular street or highway, OR  
2 UNLESS THE CITY PLANNING COMMISSION OF SUCH CITY, PURSUANT TO THE  
3 REQUIREMENTS OF A SPECIAL PURPOSE DISTRICT SET FORTH IN SUCH CITY'S  
4 ZONING RESOLUTION, SHALL HAVE CERTIFIED THAT THE BUILDING IS LOCATED IN  
5 A DEVELOPMENT WHICH COMPLIES WITH A PLAN THAT (A) PROVIDES FOR VEHICULAR  
6 ACCESS AND EGRESS FOR EMERGENCY AND OTHER VEHICULAR TRAFFIC TO THE  
7 DEVELOPMENT ARRANGED SO THAT SUCH ACCESS AND EGRESS AFFORDS THE BEST  
8 MEANS OF CONTROLLING THE FLOW OF TRAFFIC GENERATED BY SUCH DEVELOPMENT  
9 AND (B) PROVIDES THE BUILDING WITH DIRECT OR INDIRECT ACCESS TO A STREET  
10 OR HIGHWAY DULY PLACED ON THE OFFICIAL MAP OR PLAN, WHICH STREET OR  
11 HIGHWAY, AND ANY OTHER STREET OR HIGHWAY ABUTTING SUCH BUILDING OR  
12 STRUCTURE SHALL HAVE BEEN IMPROVED TO THE SATISFACTION OF THE DEPARTMENT  
13 OF TRANSPORTATION OF THE CITY AS SET FORTH ABOVE IN THIS SECTION, or,  
14 alternately, unless the owner has furnished to the department of trans-  
15 portation of such city a performance bond naming the city as obligee,  
16 approved by such department, to the full cost of such improvement as  
17 estimated by such department, or other security approved by such depart-  
18 ment, that such improvement will be completed within the time specified  
19 by such department. If such improvement has not been installed within  
20 the time specified by such department, such department may declare such  
21 performance bond or other security to be in default and shall collect,  
22 in the name of the city, the sum remaining payable thereunder. Upon  
23 receipt of the proceeds thereof, the city shall install such improve-  
24 ment. If the cost of such improvement exceeds the sum remaining payable  
25 under such bond or other security, the owner shall be liable for and  
26 shall pay to the city, the amount of such excess. Where the enforcement  
27 of the provisions of this section would entail practical difficulty or  
28 unnecessary hardship, and where the circumstances of the case do not  
29 require the structure to be related to existing or proposed streets or  
30 highways, the applicant for such a certificate of occupancy may appeal  
31 from the decision of the administrative officer having charge of the  
32 issuance of certificates of occupancy to the board of standards and  
33 appeals or other similar board of such city having power to make vari-  
34 ances or exceptions in zoning regulations, and the same provisions are  
35 hereby applied to such appeals and to such board as are provided in  
36 cases of appeals on zoning regulations. The board may in passing on such  
37 appeal make any reasonable exception and issue the certificate of occu-  
38 pancy subject to conditions that will protect any future street or high-  
39 way layout. Any such decision shall be subject to review under the  
40 provisions of article seventy-eight of the civil practice law and rules.  
41 No permit shall be granted for the erection of any building or structure  
42 in such city unless the owner has furnished to the commissioner of  
43 transportation of such city a policy of liability insurance, marked  
44 paid, in such amounts as may be fixed by such department, insuring,  
45 indemnifying and saving the city harmless from any claims, suits,  
46 demands, causes of action and judgments by reason of personal injuries  
47 sustained by any person or persons, including death, and from any  
48 claims, suits, demands, causes of action and judgments for damages to  
49 property, occurring on any such street or highway giving access to or  
50 abutting such structure, up to the date of the issuance of the certif-  
51 icate of occupancy or up to the date of the completion of the improve-  
52 ment of such street or highway as required by or pursuant to this  
53 section, whichever is later. In the event that the owner is covered by  
54 such a policy of liability insurance, the department of transportation  
55 may accept a certificate of endorsement extending such policy to include  
56 and cover the city. Every permit issued for the erection of any such

1 building or structure shall contain a statement that no certificate of  
2 occupancy will be issued with respect to such building or structure  
3 unless a street or highway giving access to such structure has been duly  
4 placed on the official map or plan, which street or highway and any  
5 other mapped street or highway abutting such building or structure shall  
6 have been suitably improved to the satisfaction of the department of  
7 transportation of the city in accordance with standards and specifica-  
8 tions approved by such department as adequate in respect to the public  
9 health, safety and general welfare for the special circumstances of the  
10 particular street or highway or, alternately, unless the owner has  
11 furnished to the department of transportation a performance bond naming  
12 the city as obligee, approved by such department, sufficient to cover  
13 the full cost of such improvement as estimated by such department, or  
14 other security approved by such department, that such improvement will  
15 be completed within the time specified by such department.  
16 S 2. This act shall take effect immediately.