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

2297

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. ENGLEBRIGHT, SWEENEY, RAMOS, EDDINGTON, THIELE -- Multi-Sponsored by -- M. of A. COLTON -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to accountability and special disclosure in state authorized or assisted county, town or village acquisition of land for open space, environmental and/or historic preservation

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

Section 1. Legislative declaration. Through authorizations to tax, incur debt, and appropriation of state funds for the purposes of open space acquisition, the state has facilitated the ability of counties, towns and villages to finance open space acquisition. The process of open space acquisition is complex and susceptible to questions of fairness and appropriateness in instances of particular public land acquisitions. Therefore, the legislature declares its intention to provide in this act for accountability and special disclosure for open space acquisition transactions authorized or assisted by the state.

S 2. The environmental conservation law is amended by adding a new section 49-0212 to read as follows:

S 49-0212. ACCOUNTABILITY AND SPECIAL DISCLOSURE IN COUNTY, TOWN OR VILLAGE OPEN SPACE TRANSACTIONS.

1. THE COUNTY EXECUTIVE, TOWN SUPERVISOR, MAYOR OR CHIEF EXECUTIVE OFFICER OF ANY COUNTY, TOWN OR VILLAGE WHICH PURCHASES AN INTEREST IN LAND FOR OPEN SPACE, ENVIRONMENTAL AND/OR HISTORIC PRESERVATION PURPOSES OR PARK PURPOSES SHALL SIGN A FINDING (HEREINAFTER REFERRED TO IN THIS SECTION AS THE "FINDING") AS PROVIDED FOR IN THIS SECTION FOR EACH SUCH TRANSACTION IN WHICH THE RESPECTIVE COUNTY, TOWN OR VILLAGE IS A PARTY. SUCH FINDING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

A. THAT THE LAND OR EASEMENT ACQUIRED IS SUITABLE FOR OPEN SPACE, ENVIRONMENTAL AND/OR HISTORIC PRESERVATION PURPOSES AND CONSISTENT WITH

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

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THE COUNTY'S, TOWN'S OR VILLAGE'S OPEN SPACE, ENVIRONMENTAL AND HISTORIC PRESERVATION PRESERVATION POLICY AND PUBLIC NEED;

B. THAT THE LAND ACQUISITION PROCESS WAS COMPLETE AND FAIR INCLUDING THE USE OF AN INDEPENDENT PROFESSIONAL APPRAISER IN DETERMINING THE VALUE OF THE LAND OR EASEMENT, OR, WHERE AN INDEPENDENT PROFESSIONAL APPRAISER WAS NOT USED, THE REASON THEREFOR;

C. THAT IN THE CASE OF A PURCHASE, WHERE THE PURCHASE PRICE EXCEEDS THE APPRAISED VALUE AS DETERMINED BY THE APPRAISAL, WHY SUCH PURCHASE PRICE IS IN THE PUBLIC INTEREST; AND

D. THAT ALL COUNTY, TOWN OR VILLAGE LAWS AND PROCEDURES REGARDING LAND ACQUISITIONS HAVE BEEN FULLY FOLLOWED AND DOCUMENTED, INCLUDING A LOG OF ALL CONVERSATIONS RELATING TO THE TRANSACTION AND ALL INFORMATION ON THE COUNTY'S, TOWN'S OR VILLAGE'S ACQUISITION ARE AVAILABLE TO THE PUBLIC.

SUCH FINDING SHALL BE SIGNED AND FILED WITH THE APPROPRIATE COUNTY CLERK, TOWN CLERK OR VILLAGE CLERK NOT LATER THAN SEVEN DAYS AFTER THE ACQUISITION TRANSACTION SHALL HAVE BEEN DEEMED TO BE COMPLETE.

2. IN ADDITION TO THE OTHER PROVISIONS FOR MAINTENANCE AND AVAILABILITY OF PUBLIC RECORDS AND UPON COMPLETION OF AN OPEN SPACE LAND OR EASEMENT TRANSACTION COVERED BY THE PROVISIONS OF THIS SECTION, A FILE WITH ALL RECORDS AND INFORMATION RELATING TO THE TRANSACTION INCLUDING APPRAISALS, NOTES, INTERNAL MEMORANDA AND ALL OTHER CORRESPONDENCE RELATING THERETO SHALL BE READILY AVAILABLE FOR PUBLIC INSPECTION AT THE APPROPRIATE COUNTY, TOWN OR VILLAGE CLERK'S OFFICE FOR NOT LESS THAN NINETY DAYS FOLLOWING THE COMPLETION OF THE TRANSACTION.

3. THE APPROPRIATE COUNTY CLERK, TOWN CLERK OR VILLAGE CLERK SHALL PUBLISH IN THE NEWSPAPER OF RECORD FOR THE RESPECTIVE COUNTY, TOWN OR VILLAGE A NOTICE OF EACH ACQUISITION TRANSACTION WITHIN SEVEN DAYS OF THE FILING OF THE FINDING. SUCH NOTICE SHALL STATE THAT INFORMATION AND RECORDS ON SUCH TRANSACTION ARE AVAILABLE TO THE PUBLIC AT THE OFFICE OF THE RESPECTIVE COUNTY CLERK, TOWN CLERK OR VILLAGE CLERK.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.