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

5748

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

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

AN ACT requiring municipalities that institute certain zoning changes to adhere to certain rules of construction for new homes, specifically including homes available to families with limited incomes

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

Section 1. The legislature finds and declares as follows:

1. The availability of housing is of vital statewide importance, and decent housing and a suitable living environment for every New Yorker is a priority of the highest order.

2. The goal requires that cooperative participation of government and the private sector in an effort to expand housing on all levels of opportunities and accommodate the housing needs of New Yorkers of all economic levels.

3. Local and state governments have a responsibility to use their powers to facilitate the improvement and development of housing to make adequate provisions for the housing needs of all economic segments of the community.

4. The legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals and to cooperate with other local governments and the state in addressing regional housing needs.

S 2. 1. Definitions. When used in this act, unless a different meaning clearly appears from the context, the following terms shall mean and include:

(a) "Covered zoning change." A change enacted by a municipality to its zoning laws, ordinances or plan that would allow for the construction of 400 or more residential housing units in excess of the number of housing

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

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units permitted by the existing zoning law, ordinance or plan in the area covered by such change.

(b) "Covered project." Any new building or group of contiguous buildings which are part of one development which contains more than 10 housing units and is located on a site where (i) housing development was not permitted as of right prior to a covered zoning change or (ii) the covered zoning change increased the number of housing units permitted on the site by 50 percent or more (regardless of the number of units constructed).

2. Every covered project shall provide on-site housing units for persons and families of low income that meet one of the following conditions:

(a) With respect to a covered project containing rental units:

(i) at least 30 percent of all units shall be affordable to households with an income that does not exceed 50 percent of the area median income; or

(ii) at least 40 percent of all units shall be affordable to households with an income that does not exceed 80 percent of the median income; or

(iii) at least 50 percent of all units shall be affordable to households with an income that does not exceed 100 percent of the area median; or

(iv) at least 60 percent of all units shall be affordable to households with an income that does not exceed 120 percent of the area median income.

(b) With respect to a covered project consisting of units offered for sale, including but not limited to, condominium and cooperative units:

(i) at least 20 percent of all units shall be affordable to households with an income that does not exceed 80 percent of the area median income; or

(ii) at least 40 percent of all units shall be affordable to households with an income that does not exceed 120 percent of the area median income.

For the purpose of this subdivision, a unit shall be deemed affordable to a household within a specified income category when, with respect to rental housing, the rent does not exceed 30 percent of the household income net of utility allowances and, with respect to units offered for sale, the purchase price does not exceed the maximum purchase price limits established by the state of New York mortgage agency first time homebuyers mortgage program and the mortgage costs do not exceed 35 percent of household income, net of insurance, property taxes, homeowner association dues, and utilities.

Affordable units must have comparable number of bedrooms as market rate units and a unit mix proportional to the market rate units and shall be scattered throughout each covered building or project.

3. Every covered zoning change shall provide for the following with respect to covered projects.

(a) Zoning bonuses or other incentives shall be granted to covered projects to the extent necessary to reasonably ensure that the requirements of subdivision one of this section will not unduly inhibit the economically viable development of the area subject to the covered zoning change.

(b) Residents of the local community shall have priority for the purchase or rental of 50 percent of the affordable units.

(c) Mechanisms, such as occupancy requirements, regulatory agreements, resale restrictions, and other deed restrictions recorded against the

land, shall be mandated and legally enforceable remedies to enforce such mechanisms shall also be established to ensure that affordable units created under covered zoning changes will continue to be available for the life of the units.

4. Any municipality which enacts a covered zoning change shall amend any law, ordinance, or regulation or remove any provisions which prohibits a covered project from qualifying for tax credits, subsidies or other government benefits solely because it is subject to the provisions of this act.

5. The local municipality shall ensure that permit processing for any covered project shall be completed expeditiously. The municipality shall also take reasonable efforts to prevent any delay in the construction of a covered project.

S 3. The requirements of this act constitute minimum standards and shall not restrict a municipality from enacting provisions that exceed these standards.

S 4. The executive and legislative body of any municipality covered by this act shall enact any provisions necessary to implement the provisions of this act.

S 5. Any changes to zoning law, ordinance, or plan that would be covered by this act after its effective date shall be amended to comply with the provisions of this law if such change covers a contiguous area in excess of 10 acres and has not gone into effect prior to the date this act shall have become a law.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately any action required for the timely implementation of this act on its effective date is authorized to be made on or before such effective date.