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

203

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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:

Section 1. Subdivision 2 of section 36 of the general city law, as amended by chapter 815 of the laws of 1984, is amended to read as follows:

2. A city having a population of one million or more. No public municipal street utility or improvement shall be constructed by any city having a population of one million or more in any street or highway until it has become a public street or highway and is duly placed on the official map or plan, with the exception that a city may construct improvements and provide services to any public way (mapped or unmapped) if the public way has been open and in use to the public for a minimum of ten years. The existence of the public way must be attested to by documents satisfactory to the municipality, such as reports of city agencies providing municipal services. No certificate of occupancy shall be issued in such city for any building unless a street or highway giving access to such structure has been duly placed on the official map or plan, which street or highway, and any other mapped street or highway abutting such building or structure shall have been suitably improved to the satisfaction of the department of transportation of the city in accordance with standards and specifications approved by such department 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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for the special circumstances of the particular street or highway, OR UNLESS THE CITY PLANNING COMMISSION OF SUCH CITY, PURSUANT TO THE REQUIREMENTS OF A SPECIAL PURPOSE DISTRICT SET FORTH IN SUCH CITY'S ZONING RESOLUTION, SHALL HAVE CERTIFIED THAT THE BUILDING IS LOCATED IN A DEVELOPMENT WHICH COMPLIES WITH A PLAN THAT (A) PROVIDES FOR VEHICULAR ACCESS AND EGRESS FOR EMERGENCY AND OTHER VEHICULAR TRAFFIC TO THE DEVELOPMENT ARRANGED SO THAT SUCH ACCESS AND EGRESS AFFORDS THE BEST MEANS OF CONTROLLING THE FLOW OF TRAFFIC GENERATED BY SUCH DEVELOPMENT AND (B) PROVIDES THE BUILDING WITH DIRECT OR INDIRECT ACCESS TO A STREET OR HIGHWAY DULY PLACED ON THE OFFICIAL MAP OR PLAN, WHICH STREET OR HIGHWAY, AND ANY OTHER STREET OR HIGHWAY ABUTTING SUCH BUILDING OR STRUCTURE SHALL HAVE BEEN IMPROVED TO THE SATISFACTION OF THE DEPARTMENT OF TRANSPORTATION OF THE CITY AS SET FORTH ABOVE IN THIS SECTION, or, alternately, unless the owner has furnished to the department of transportation of such city a performance bond naming the city as obligee, approved by such department, to the full cost of such improvement as estimated by such department, or other security approved by such department, that such improvement will be completed within the time specified by such department. If such improvement has not been installed within the time specified by such department, such department may declare such performance bond or other security to be in default and shall collect, in the name of the city, the sum remaining payable thereunder. Upon receipt of the proceeds thereof, the city shall install such improvement. If the cost of such improvement exceeds the sum remaining payable under such bond or other security, the owner shall be liable for and shall pay to the city, the amount of such excess. Where the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the structure to be related to existing or proposed streets or highways, the applicant for such a certificate of occupancy may appeal from the decision of the administrative officer having charge of the issuance of certificates of occupancy to the board of standards and appeals or other similar board of such city having power to make variances or exceptions in zoning regulations, and the same provisions are hereby applied to such appeals and to such board as are provided in cases of appeals on zoning regulations. The board may in passing on such appeal make any reasonable exception and issue the certificate of occupancy subject to conditions that will protect any future street or highway layout. Any such decision shall be subject to review under the provisions of article seventy-eight of the civil practice law and rules. No permit shall be granted for the erection of any building or structure in such city unless the owner has furnished to the commissioner of transportation of such city a policy of liability insurance, marked paid, in such amounts as may be fixed by such department, insuring, indemnifying and saving the city harmless from any claims, suits, demands, causes of action and judgments by reason of personal injuries sustained by any person or persons, including death, and from any claims, suits, demands, causes of action and judgments for damages to property, occurring on any such street or highway giving access to or abutting such structure, up to the date of the issuance of the certificate of occupancy or up to the date of the completion of the improvement of such street or highway as required by or pursuant to this section, whichever is later. In the event that the owner is covered by such a policy of liability insurance, the department of transportation may accept a certificate of endorsement extending such policy to include and cover the city. Every permit issued for the erection of any such

building or structure shall contain a statement that no certificate of occupancy will be issued with respect to such building or structure unless a street or highway giving access to such structure has been duly placed on the official map or plan, which street or highway and any other mapped street or highway abutting such building or structure shall have been suitably improved to the satisfaction of the department of transportation of the city in accordance with standards and specifications approved by such department as adequate in respect to the public health, safety and general welfare for the special circumstances of the particular street or highway or, alternately, unless the owner has furnished to the department of transportation a performance bond naming the city as obligee, approved by such department, sufficient to cover the full cost of such improvement as estimated by such department, or other security approved by such department, that such improvement will be completed within the time specified by such department.

S 2. This act shall take effect immediately.