

4913

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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

AN ACT to amend the real property law, in relation to requiring landlords to hold a public forum with tenants prior to contracting with cell phone service carriers to mount cell phone towers on residential buildings; and to amend the education law, in relation to requiring school districts to provide parents and school faculty with written notification of cell phone towers being mounted onto school facilities

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

1 Section 1. The real property law is amended by adding a new section
2 238-a to read as follows:
3 S 238-A. DUTY OF LANDLORD TO HOLD A PUBLIC FORUM PRIOR TO MOUNTING
4 CELLULAR PHONE TOWERS ONTO RESIDENTIAL BUILDING STRUCTURES. 1. THE
5 TERMS "CELLULAR PHONE TOWER", "CELLULAR PHONE ANTENNA" AND "BASE
6 STATION" AS USED IN THIS SECTION SHALL MEAN A STRUCTURE CONSISTING OF
7 RADIOS, COMPUTERIZED SWITCHING EQUIPMENT, AND ANTENNAS THAT RECEIVE AND
8 TRANSMIT RADIO FREQUENCY SIGNALS WHICH FACILITATE CELLULAR PHONE TRANS-
9 MISSION AND RECEPTION.
10 2. A LANDLORD SHALL BE REQUIRED TO HOLD A PUBLIC FORUM WITH HIS OR HER
11 TENANTS PRIOR TO CONTRACTING WITH A CELL PHONE SERVICE CARRIER TO MOUNT
12 A CELL PHONE TOWER, CELL PHONE ANTENNA OR BASE STATION ONTO THE RESIDEN-
13 TIAL BUILDING STRUCTURE.
14 3. A LANDLORD WHO VIOLATES SUBDIVISION TWO OF THIS SECTION SHALL BE
15 SUBJECT, IN ADDITION TO ANY OTHER PENALTIES THAT MAY BE PRESCRIBED BY
16 LAW, TO A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS FOR EACH DAY THAT
17 PASSES AFTER A BUILDING PERMIT HAS BEEN APPROVED TO BUILD A CELLULAR
18 PHONE TOWER, CELLULAR PHONE ANTENNA OR BASE STATION, TO BE MOUNTED ONTO
19 A RESIDENTIAL BUILDING STRUCTURE WITHOUT PROPER NOTIFICATION TO TENANTS.
20 S 2. The education law is amended by adding a new section 414-a to
21 read as follows:

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

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1 S 414-A. NOTIFICATION ABOUT CELL PHONE TOWERS LOCATED ON SCHOOL FACIL-
2 ITIES. 1. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE
3 THE MEANINGS SET FORTH BELOW: (A) "SCHOOL" SHALL MEAN ANY PUBLIC SCHOOL
4 DISTRICT OR PRIVATE OR PAROCHIAL SCHOOL OR BOARD OF COOPERATIVE EDUCA-
5 TIONAL SERVICES.

6 (B) "FACILITY" MEANS ANY SCHOOL BUILDING USED FOR INSTRUCTIONAL
7 PURPOSES AND ITS SURROUNDING GROUNDS, SITES AND OTHER GROUNDS TO BE USED
8 FOR PLAYGROUNDS, ATHLETICS AND OTHER INSTRUCTIONAL PURPOSES, AND ANY
9 ADMINISTRATIVE OFFICES.

10 (C) "WRITTEN NOTIFICATION" SHALL MEAN NOTICE IN WRITING THAT IS:
11 PROVIDED DIRECTLY TO STUDENTS' PARENTS OR GUARDIANS AND TO SCHOOL STAFF
12 MEMBERS; OR DELIVERED TO A RECEPTACLE DESIGNATED FOR STUDENTS' PARENTS
13 OR GUARDIANS AND TO STAFF MEMBERS; OR MAILED TO STUDENTS' PARENTS OR
14 GUARDIANS AND TO STAFF MEMBERS' LAST KNOWN ADDRESS; OR DELIVERED BY ANY
15 OTHER REASONABLE METHODS AUTHORIZED BY THE COMMISSIONER.

16 2. SCHOOLS SHALL PROVIDE WRITTEN NOTIFICATION TO THE PARENT OR GUARDI-
17 AN OF A STUDENT AND TO SCHOOL FACULTY, STAFF AND ADMINISTRATORS BEFORE
18 CELL PHONE TOWERS, CELL PHONE ANTENNAS OR BASE STATIONS ARE PLACED OR
19 MOUNTED ONTO SCHOOL FACILITIES.

20 3. ANY SCHOOL THAT VIOLATES SUBDIVISION TWO OF THIS SECTION SHALL BE
21 SUBJECT TO A CIVIL PENALTY OF FIVE HUNDRED DOLLARS FOR EACH DAY THAT
22 PASSES AFTER A BUILDING PERMIT HAS BEEN APPROVED TO BUILD A CELLULAR
23 PHONE TOWER, CELLULAR PHONE ANTENNA OR BASE STATION, TO BE MOUNTED ONTO
24 A SCHOOL FACILITY WITHOUT PROPER NOTIFICATION TO THE PARENT OR GUARDIAN
25 OF A STUDENT OR TO SCHOOL FACULTY, STAFF AND ADMINISTRATORS.

26 S 3. Severability. If any provision of this act or the application
27 thereof to any person or circumstance is adjudged invalid by a court of
28 competent jurisdiction, such judgment shall not affect or impair any
29 other provisions or applications of this act which can be effected with-
30 out the invalid provision or application, and to this end the provisions
31 of this act are severable.

32 S 4. This act shall take effect immediately.