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

6495

I N S E N A T E

February 16, 2012

Introduced by Sens. MARTINS, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to parkland protection

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

Section 1. The general municipal law is amended by adding a new article 19-C to read as follows:

ARTICLE 19-C
PARKLAND PROTECTION

SECTION 995. CERTIFIED ACTIONS FOR PARKLAND PROTECTION.

S 995. CERTIFIED ACTIONS FOR PARKLAND PROTECTION. A. THE ATTORNEY GENERAL OF THE STATE OF NEW YORK MAY BRING AN ACTION, IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK, TO PROTECT A PARCEL OF PROPERTY, LOCATED WITHIN ANY CITY, TOWN, VILLAGE OR COUNTY OF THE STATE, WHICH HAS PREVIOUSLY BEEN DEDICATED AS PARKLAND, TO ENJOIN THE ALIENATION OR NON-PARKLAND USE OF SUCH PARCEL, ON GROUNDS THAT THE ALIENATION USE WAS NOT SOUGHT IN CONFORMANCE WITH THE REQUIREMENTS OF ALIENATION UNDER THE PUBLIC TRUST DOCTRINE AS EXPRESSED IN THE CONSTITUTION OF THE STATE OF NEW YORK, OR THAT THE USE OF SUCH PARCEL WOULD BE FOR A PURPOSE THAT IS INCONSISTENT WITH THE DEDICATION OF SUCH PARCEL FOR PARKLAND PURPOSES.

B. ANY ACTION BROUGHT TO ENJOIN THE ALIENATION OR NON-PARKLAND USE OF A PARCEL OF PROPERTY, WHICH HAS BEEN PREVIOUSLY DEDICATED AS PARKLAND, ON THE GROUNDS THAT SUCH ALIENATION WAS NOT SOUGHT IN CONFORMANCE WITH REQUIREMENTS OF ALIENATION UNDER THE PUBLIC TRUST DOCTRINE, OR THAT THE USE OF SUCH PARCEL WOULD BE FOR A PURPOSE THAT IS INCONSISTENT WITH THE DEDICATION OF SUCH PARCEL FOR PARKLAND PURPOSES SHALL BE COMMENCED IN THE SUPREME COURT IN THE COUNTY IN WHICH THE PARCEL IS SITUATED.

C. IF THE ATTORNEY GENERAL DOES NOT BRING AN ACTION UNDER SUBDIVISION A OF THIS SECTION, THEN THE ATTORNEY GENERAL MAY AUTHORIZE AN INDIVIDUAL PARTY WHO IS A RESIDENT OF THE CITY, TOWN, VILLAGE OR COUNTY IN WHICH THE PARKLAND PARCEL IS LOCATED, TO BRING AN ACTION, IN HIS OR HER OWN NAME TO ENJOIN THE ALIENATION OR NON-PARKLAND USE OF SUCH PARCEL, ON THE

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

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GROUNDS THAT THE ALIENATION WAS NOT SOUGHT IN CONFORMANCE WITH THE REQUIREMENTS OF ALIENATION UNDER THE PUBLIC TRUST DOCTRINE AS EXPRESSED IN THE CONSTITUTION OF THE STATE OF NEW YORK, OR THAT THE USE OF SUCH PARCEL WOULD BE FOR A PURPOSE THAT IS INCONSISTENT WITH THE DEDICATION OF SUCH PARCEL FOR PARKLAND PURPOSES. THE ATTORNEY GENERAL MAY, IN WRITING, EXPRESSLY DENY THE AUTHORITY OF SUCH REQUESTING PARTY TO BRING SUCH AN ACTION TO PROTECT SUCH PARCEL OF PARKLAND PROPERTY ON THE GROUNDS THAT SUCH ACTION WOULD NOT BE IN THE PUBLIC INTEREST.

D. IN THE EVENT THAT THE ATTORNEY GENERAL DOES NOT, IN WRITING, EXPRESSLY DENY THE AUTHORITY OF SUCH PARTY TO BRING SUCH AN ACTION AS SET FORTH IN PARAGRAPH C OF THIS SECTION, WITHIN ONE HUNDRED TWENTY DAYS OF THE SUBMISSION OF A REQUEST BY SUCH PARTY TO BE AUTHORIZED BY THE ATTORNEY GENERAL TO BRING SUCH AN ACTION, THEN SUCH ACTION TO PROTECT THE PARKLAND PARCEL MAY BE BROUGHT BY SUCH PARTY AS IF SUCH ACTION HAD BEEN AUTHORIZED BY THE ATTORNEY GENERAL.

E. ANY COURT OF COMPETENT JURISDICTION CONSIDERING AN ACTION BROUGHT UNDER THIS SECTION MAY AWARD THE PREVAILING PARTY, IN ADDITION TO COSTS, AND DISBURSEMENTS, AN AMOUNT OF REASONABLE ATTORNEYS FEES INCURRED IN SUCH ACTION, OR ITS APPEALS.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.