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

10557

I N A S S E M B L Y

June 5, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Meng) -- read once and referred to the Committee on Cities

AN ACT to amend the charter of the city of New York, in relation to requiring the board of standards and appeals to submit its decisions for review by the affected city council; and to amend the administrative code of the city of New York, in relation to extending the time in which to petition the court for a review of a decision of the board of standards and appeals

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

Section 1. Subdivisions c, d and e of section 668 of the charter of the city of New York, as amended by a vote of the people of the city of New York at the general election held in November of 1989, are amended to read as follows:

c. Copies of a decision of the board of standards and appeals and copies of any recommendation of the affected community board or borough board shall be filed with the city planning commission. Copies of the decision shall also be filed with the affected community or borough boards, THE BOROUGH PRESIDENT, ALL COUNCIL MEMBERS AND THE SPEAKER OF THE CITY COUNCIL.

d. THE CITY COUNCIL OF THE AFFECTED COMMUNITY OR BOROUGH SHALL HAVE THE AUTHORITY TO ACCEPT OR OVER-RIDE THE DECISION OF THE BOARD OF STANDARDS AND APPEALS. THE CITY COUNCIL SHALL DETERMINE, WITHIN THIRTY DAYS OF THE DATE OF THE DECISION OF THE BOARD OF STANDARDS AND APPEALS, IF IT WISHES TO REVIEW THE DECISION OF THE BOARD OF STANDARDS AND APPEALS. IF THE CITY COUNCIL ELECTS TO REVIEW THE DECISION, IT SHALL COMPLETE SUCH REVIEW WITHIN NINETY DAYS OF THE DATE OF THE DECISION OF THE BOARD OF STANDARDS AND APPEALS. THE CITY COUNCIL SHALL NOTIFY THE BOARD OF STANDARDS AND APPEALS, THE CITY PLANNING OFFICE AND ALL AFFECTED PARTIES OF ITS DECISION WITHIN THE NINETY DAY REVIEW PERIOD.

E. Any decision of the board of standards and appeals pursuant to this section may be reviewed as provided by law.

[e.] F. The city planning commission shall be a party to any proceeding to determine and vary the application of the zoning resolution. The

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

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commission may appear and be heard on any application pursuant to this section before the board of standards and appeals if, in the judgment of the city planning commission, the granting of relief requested in such application would violate the requirements of the zoning resolution relating to the granting of variances. The commission shall have standing to challenge the granting or denial of a variance in a proceeding brought pursuant to article seventy-eight of the civil practice law and rules, or in any similar proceeding.

S 2. Subdivisions a and b of section 25-207 of the administrative code of the city of New York, subdivision a as amended by local law number 49 of the city of New York for the year 1991, are amended to read as follows:

a. Petition. Any person or persons, jointly or severally aggrieved by any decision of the board may present to the supreme court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court within [thirty] ONE HUNDRED TWENTY days after the filing of the decision in the office of the board.

b. Order of certiorari. Upon the presentation of such petition, the justice or court may allow an order of certiorari directed to the board to review such decision and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court or a justice thereof. Such order shall be returnable at a special term of the supreme court of the judicial district in which the property affected, or a portion thereof, is situated. The allowance of the order shall [not] stay proceedings upon the decision appealed from[, but the court may on application, on notice to the board and on due cause shown, grant a restraining order] FOR A PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS.

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