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

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2013-2014 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. WRIGHT, ROBINSON, COLTON -- Multi-Sponsored by -- M. of A. RAIA, ZEBROWSKI -- read once and referred to the Committee on Judiciary

AN ACT to amend the eminent domain procedure law, in relation to requirements for seizure of private property for public use under certain circumstances

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

Section 1. Subdivision (G) of section 103 of the eminent domain procedure law is amended and a new subdivision (H) is added to read as follows:

(G) (I) "Public project" means any program or project for which acquisition of property may be required for a public use, benefit or purpose, PROVIDED THAT WHERE THE PURPOSE OF SUCH PROGRAM OR PROJECT IS TO PROVIDE ECONOMIC DEVELOPMENT THROUGH AN URBAN REDEVELOPMENT PLAN OR AN URBAN RENEWAL PLAN IN AN AREA OF THE STATE WHICH IS NOT BLIGHTED, THE PROVISIONS OF SECTION TWO HUNDRED NINE OF THIS CHAPTER SHALL APPLY.

(II) PUBLIC BENEFIT PROJECT SHALL ALSO INCLUDE ANY CORPORATE DEVELOPER EITHER PUBLIC OR PRIVATE WHO ENTERS INTO A COMMUNITY BENEFITS AGREEMENT WITH NO LESS THAN TEN COMMUNITY ORGANIZATIONS WHO: (1) IN THE LAST FIVE YEARS PRIOR TO THE DEVELOPMENT PROJECT, WERE IN POSSESSION OF NOT-FOR-PROFIT 501(C)(3) STATUS AS RECOGNIZED BY THE UNITED STATES INTERNAL REVENUE SERVICE; (2) WHOSE PLACE OF BUSINESS IS WITHIN ONE THOUSAND FEET OF THE PROPOSED DEVELOPMENT; AND (3) WHO, IN THE LAST FIVE YEARS PRIOR TO THE DEVELOPMENT PROJECT, HAS NOT RECEIVED FROM THE PROPOSED DEVELOPER ANY MONETARY ASSISTANCE EITHER IN THE FORM OF GRANT MONEY OR OTHERWISE THAT EQUALS OR EXCEEDS FIVE PERCENT OF THE COMMUNITY ORGANIZATION'S TOTAL ANNUAL OPERATING BUDGET. SUCH COMMUNITY BENEFITS AGREEMENT SHALL BE EXECUTED NOT LESS THAN ONE YEAR PRIOR TO THE COMMENCEMENT OF ANY CONDEMNATION PROCEEDINGS AS OUTLINED IN THIS CHAPTER.

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

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(III) FOR PURPOSES OF THIS SECTION, A COMMUNITY BENEFITS AGREEMENT SHALL BE ANY CONTRACT ENTERED INTO BETWEEN THE PROPOSED DEVELOPER AND VARIOUS COMMUNITY ORGANIZATIONS WHERE AT LEAST ONE OF THE SIGNATORY ORGANIZATIONS NOT-FOR-PROFIT CORPORATE PURPOSES IS IN THE AREA OF AFFORDABLE HOUSING, JOB DEVELOPMENT AND CHILD SUPPORTIVE SERVICES AND WHERE THE AGREEMENT OUTLINES HOW THE PROPOSED DEVELOPMENT WILL BENEFIT WORKERS AND RESIDENTS THAT WILL BE SUBSTANTIALLY AFFECTED BY THE PROPOSED DEVELOPMENT.

(H) "BLIGHTED AREAS" SHALL MEAN AREAS, WITH DETERIORATED OR DETERIORATING STRUCTURES, A PREDOMINANCE OF DEFECTIVE OR INADEQUATE STREET LAYOUT, FAULTY LOT LAYOUT IN RELATION TO SIZE, ADEQUACY, ACCESSIBILITY, OR USEFULNESS, UNSANITARY OR UNSAFE CONDITIONS, DETERIORATION OF SITE OR OTHER IMPROVEMENTS, DIVERSITY OF OWNERSHIP, TAX OR SPECIAL ASSESSMENT, DELINQUENCY EXCEEDING THE FAIR VALUE OF THE LAND, DEFECTIVE OR UNUSUAL CONDITIONS OF TITLE, IMPROPER SUBDIVISION OR THE EXISTENCE OF CONDITIONS WHICH ENDANGER LIFE OR PROPERTY BY FIRE AND OTHER CAUSES, OR ANY COMBINATION OF THESE FACTORS WHICH SUBSTANTIALLY IMPAIRS OR ARRESTS THE SOUND GROWTH OF A MUNICIPALITY, RETARDS THE PROVISION OF HOUSING ACCOMMODATIONS OR CONSTITUTES AN ECONOMIC OR SOCIAL LIABILITY AND IS A MENACE TO THE PUBLIC HEALTH, SAFETY, MORALS OR WELFARE IN ITS PRESENT CONDITION, WHICH CANNOT BE RECTIFIED EFFECTIVELY SOLELY THROUGH THE REGULATORY USE OF POLICE POWER.

S 2. The eminent domain procedure law is amended by adding a new section 209 to read as follows:

S 209. URBAN REDEVELOPMENT PLANS AND URBAN RENEWAL PLANS. (A) A CONDEMNOR WHO SEEKS TO ACQUIRE PRIVATE PROPERTY THROUGH THE EXERCISE OF EMINENT DOMAIN FOR THE PURPOSE OF IMPLEMENTING AN URBAN REDEVELOPMENT PLAN OR AN URBAN RENEWAL PLAN IN AN AREA OF THE STATE WHICH IS NOT BLIGHTED AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED THREE OF THIS CHAPTER AND WHICH INVOLVES TRANSFER OR SALE OF THE PROPERTY, IN WHOLE OR IN PART, TO A PRIVATE DEVELOPER SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION.

(1) THE DEVELOPER AND ANY SUCCESSOR OWNERS OR ASSIGNEES SHALL MAKE AVAILABLE TO THE CONDEMNOR AND THE PUBLIC, AT THE DEVELOPER'S OWN COST, ALL PLANS FOR THE DEVELOPMENT OF THE ACQUIRED PROPERTY INCLUDING BUT NOT LIMITED TO THE EXPECTED OR PROJECTED PROFIT OF SAID DEVELOPMENT.

(2) WHERE THE DEVELOPMENT IN ANY ASPECT CONTAINS PROVISIONS FOR MANUFACTURING SPACE, THE DEVELOPER MUST AT THE DEVELOPER'S OWN COST CONDUCT AN ENVIRONMENTAL IMPACT STATEMENT WHICH SHALL INCLUDE A CENSUS TO DETERMINE THE NUMBER OF WORKERS THAT MAY FACE EMPLOYMENT DISLOCATION AS A RESULT OF THE PROPOSED DEVELOPMENT. THE DEVELOPER SHALL INCLUDE A RELOCATION PLAN WITHIN THE BOUNDARIES OF THE DEVELOPMENT TO ADDRESS EMPLOYMENT DISLOCATION.

(3) IF THE DEVELOPMENT IN ANY ASPECT CONTAINS PROVISIONS FOR RETAIL SPACE, THE DEVELOPER MUST INITIALLY SEEK TO LEASE NOT LESS THAN FIFTEEN PERCENT OF THE GROSS RETAIL SPACE AVAILABLE TO COMMUNITY BASED BUSINESSES, WITH SPECIAL PREFERENCE GIVEN TO LOCAL BUSINESSES DISPLACED AS A RESULT OF THE DEVELOPMENT PROJECT.

(4) THE DEVELOPMENT PLAN WHICH IS MADE AVAILABLE TO THE PUBLIC SHALL INDICATE HOW THE DEVELOPMENT WILL PROVIDE THE COMMUNITY IMMEDIATELY AFFECTED BY THE PROJECT WITH A MANDATORY NET INCREASE OF EMPLOYMENT CONSISTENT WITH THE GOALS OF THE DEVELOPMENT PROJECT. IF THE DEVELOPMENT PROJECT FAILS TO PRODUCE A NET INCREASE IN EMPLOYMENT THE DEVELOPER SHALL PLACE TEN PERCENT OF THE ANNUAL PROFIT FROM THE PROJECT INTO A WORK FORCE DEVELOPMENT FUND TO BE ESTABLISHED BY THE DEPARTMENT OF LABOR FOR A PERIOD OF NOT LESS THAN FIVE YEARS.

(B) THE CONDEMNOR SHALL PROVIDE FAIR MARKET VALUE COMPENSATION TO ALL HOMEOWNERS AND COMMERCIAL OWNERS AFFECTED BY EMINENT DOMAIN ACQUISITION FOR THE PURPOSES OF URBAN REDEVELOPMENT OR URBAN RENEWAL. IN ADDITION, THE STATE SHALL REQUIRE NOT LESS THAN FIFTEEN PERCENT OF THE ANNUAL PROFIT FROM SUCH DEVELOPMENT BE PLACED IN A DESIGNATED ACCOUNT ESTABLISHED BY THE STATE COMPTROLLER, TO BE DISPERSED AT THE DISCRETION OF THE COMPTROLLER FOR A PERIOD OF TEN YEARS TO A CLASS OF HOMEOWNERS AND A CLASS OF COMMERCIAL OWNERS. FOR A PERIOD OF TEN YEARS THE DEVELOPMENT COMPANY AND THEIR SUCCESSORS MUST PROVIDE THE STATE WITH A COPY OF THE SAME ANNUAL REPORT THE COMPANY PROVIDES TO THEIR SHAREHOLDERS TO DETERMINE THEIR ANNUAL PROFIT FOR PURPOSES OF DISPERSING THE SAME TO THE FORMER OWNERS.

(C) THE DEVELOPER (AND ANY SUCCESSOR OWNER OR LESSEE OF ANY BUILDING IN THE DEVELOPMENT) SHALL ACCOMMODATE ALL RESIDENTIAL TENANTS AFFECTED BY THE DEVELOPMENT PLAN. THE DEVELOPER SHALL PROVIDE ALL RESIDENTIAL TENANTS CURRENTLY AND LEGALLY OCCUPYING A LEGAL RESIDENTIAL DWELLING UNIT AS THEIR PRIMARY RESIDENCE WITHIN THE AFFECTED AREA WHO ARE IN GOOD STANDING UNDER THE TERMS OF A VALID WRITTEN LEASE AGREEMENT, WHICH IS IN FULL FORCE AND EFFECT, AT SUCH TIME AS THEIR PREMISES ARE SCHEDULED TO BE IMPACTED BY CONSTRUCTION OF THE DEVELOPMENT, AND WHO HAVE RESIDED IN SUCH A RESIDENCE FOR AT LEAST ONE YEAR PRIOR TO THE DATE OF THE WRITTEN PROPOSAL SUBMITTED BY THE DEVELOPER, WITH "REASONABLY COMPARABLE LIVING SPACE" IN A NEW UNIT WITHIN THE DEVELOPMENT, AT THEIR CURRENT RENT AND A REASONABLE RELOCATION ALLOWANCE. FOR THE PURPOSES OF THIS SUBDIVISION "REASONABLY COMPARABLE LIVING SPACE" SHALL MEAN AN APARTMENT WITH APPROXIMATELY THE SAME SQUARE FOOTAGE AND NUMBER OF BEDROOMS AS SUCH TENANT'S EXISTING UNIT WHICH IS ON A FLOOR THAT IS NO LOWER THAN THE FLOOR OF SUCH EXISTING UNIT. IF A REASONABLY COMPARABLE SPACE AT THE SAME RENT IS NOT AVAILABLE, THE DEVELOPER SHALL PAY THE DIFFERENCE IN RENT FOR A REASONABLY COMPARABLE LIVING SPACE OUTSIDE OF THE DEVELOPMENT PROJECT AREA, WHICH WILL TO THE EXTENT REASONABLY PRACTICABLE BE IN A NEIGHBORING COMMUNITY (OR SUCH OTHER COMMUNITY ACCEPTABLE TO THE DISPLACED PERSONS AND THE DEVELOPER) UNTIL SUCH TIME AS A UNIT (IF THE DEVELOPMENT PLAN IS DISTINCTLY ALL OR PART RESIDENTIAL) IS MADE AVAILABLE IN THE DEVELOPMENT ON THEN COMPARABLE RENTAL TERMS (GIVING EFFECT TO STANDARD COST OF LIVING INCREASES OR RENT STABILIZATION/CONTROL INCREASES, AS APPLICABLE) AND A REASONABLE RELOCATION ALLOWANCE FOR THE INITIAL MOVE AND SUBSEQUENT MOVE INTO THE DEVELOPMENT.

(D) (1) PRIOR TO THE DEMOLITION OF ANY RESIDENTIAL OR COMMERCIAL BUILDING BY THE DEVELOPER, THE DEVELOPER SHALL PLACE NOT LESS THAN TWENTY PERCENT OF THE TOTAL COST OF THE CONSTRUCTION OF THE DEVELOPMENT IN A NEIGHBORHOOD PRESERVATION SECURITY DEPOSIT ACCOUNT, WHICH SHALL BE AN INTEREST BEARING ESCROW ACCOUNT TO BE HELD AT A LOCAL COMMUNITY BANK WHOSE HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS IS WITHIN A TWO THOUSAND FOOT RADIUS OF SUCH DEVELOPMENT PROJECT. SUCH BANK SHALL BE DESIGNATED BY THE COMPTROLLER TO ENSURE THE COMPLETION OF SUCH DEVELOPMENT PROJECT. THE INTEREST EARNED BY THE ESCROW ACCOUNT SHALL BE DISPERSED EQUALLY TO ANY COMMUNITY DEVELOPMENT CORPORATIONS AND/OR LOCAL DEVELOPMENT CORPORATIONS WHOSE CORPORATE GOALS ARE CONSISTENT WITH NEIGHBORHOOD PRESERVATION, WHICH HAVE 501(C)(3) STATUS AS RECOGNIZED BY THE UNITED STATES INTERNAL REVENUE SERVICE WHOSE HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS IS LOCATED WITHIN A TWO THOUSAND FOOT RADIUS OF SUCH DEVELOPMENT PROJECT. SUCH FUNDS SHALL BE RETURNED TO THE DEVELOPER, WITHOUT PENALTY, UPON COMPLETION OF THE PROPOSED DEVELOPMENT.

(2) IF THE DEVELOPER CANCELS OR FAILS TO COMPLETE THE DEVELOPMENT PROJECT, THE DEVELOPER SHALL FORFEIT THE NEIGHBORHOOD PRESERVATION SECU-

RITY DEPOSIT ACCOUNT AND THE COMPTROLLER SHALL DIRECT SUCH FUNDS, WITHOUT PENALTY, TO BE PAID TO THE NEW YORK STATE DIVISION OF COMMUNITY AND HOUSING RENEWAL WHICH SHALL DISPERSE SUCH FUNDS AT ITS DISCRETION TO A SPECIFIC COMMUNITY BASED ORGANIZATION, WHOSE CORPORATE GOALS ARE CONSISTENT WITH NEIGHBORHOOD PRESERVATION, WHICH IS IN POSSESSION OF 501(C)(3) STATUS AS RECOGNIZED BY THE UNITED STATES INTERNAL REVENUE SERVICE.

S 3. This act shall take effect immediately.