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I N S E N A T E

January 24, 2014

Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to consultation with affected parties on certain projects

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

1 Section 1. Section 16 of section 1 of chapter 174 of the laws of 1968
2 constituting the New York state urban development corporation act,
3 subdivisions 2 and 3 as amended by chapter 732 of the laws of 1990 and
4 subdivision 5 as amended and subdivision 6 as added by chapter 847 of
5 the laws of 1971, is amended to read as follows:
6 S 16. Cooperation with municipalities. (1) In effectuating the
7 purposes of this act, the corporation and community advisory committees
8 created pursuant to section four of this act shall work [closely,
9 consult and cooperate] DIRECTLY with local elected officials [and],
10 community leaders AND SPECIFICALLY AFFECTED PARTIES at the earliest
11 practicable time, INCLUDING BEFORE PROJECTS ARE PROPOSED, DURING THEIR
12 DEVELOPMENT AND WHEN THEY ARE PRESENTED TO THE GENERAL PUBLIC. WHENEVER
13 A PROJECT IS PROPOSED, AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED
14 PROJECT, INCLUDING, WITHOUT LIMITATION: BOARD MEETINGS, BOARD APPROVALS,
15 PUBLIC MEETINGS AND PUBLIC HEARINGS THE CORPORATION AND COMMUNITY ADVI-
16 SORY COMMITTEES SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH
17 ALL AFFECTED PARTIES, INCLUDING "SPECIFICALLY AFFECTED PARTIES" AS
18 DEFINED BELOW. FOR PURPOSES OF THIS ACT, THE TERM "SPECIFICALLY AFFECTED
19 PARTIES" SHALL HAVE THE FOLLOWING MEANING: (A) CURRENT TENANTS OR OCCU-
20 PANTS OF THE PROPOSED PROJECT SITE IN QUESTION, (B) ALL ELECTED OFFI-
21 CIALS THAT GEOGRAPHICALLY REPRESENT THE PROPOSED PROJECT SITE IN QUES-
22 TION, (C) ALL LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH LAND USE/ZONING
23 REVIEW DUTIES WITHIN THE PROPOSED PROJECT SITE IN QUESTION, (D) THE
24 COMMUNITY, MINIMALLY OPERATIONALIZED AS RESIDENTS WHO LIVE WITHIN A FIVE
25 MILE RADIUS OF THE PROPOSED PROJECT SITE IN QUESTION AND (E) COMMUNITY
26 BASED ORGANIZATIONS WHO ARE PRINCIPALLY BASED IN THE CATCHMENT AREA THAT
27 IS CONCURRENT WITH THE PROPOSED PROJECT SITE IN QUESTION. THE TERM

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

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1 "DIRECT AND PROACTIVE CONSULTATION" SHALL MEAN THE FOLLOWING: THE CORPO-
2 RATION AND COMMUNITY ADVISORY COMMITTEES SHALL REACH OUT TO ALL SPECIF-
3 ICALLY AFFECTED PARTIES WHEN THE PROJECT IS BEING CONTEMPLATED, DEVEL-
4 OPED AND PROPOSED AND AT EACH SUBSEQUENT STAGE OF SUCH PROPOSED PROJECT
5 VIA: FIRST CLASS MAIL, E-MAIL AND PHONE, WHERE PRACTICABLE; FURTHER, AT
6 EACH STAGE OF THE PROPOSED PROJECT IN QUESTION IN PERSON COMMUNITY PLAN-
7 NING MEETINGS MUST BE HELD WITH ALL CURRENT TENANTS OF THE SITE IN QUES-
8 TION, ELECTED OFFICIALS AND LOCAL GOVERNMENT SUBSIDIARIES CHARGED WITH
9 LAND USE/ZONING REVIEW DUTIES. SUCH COMMUNITY PLANNING MEETINGS, AT A
10 MINIMUM, MUST PROVIDE EACH PARTY WITH AN OPPORTUNITY TO PROPOSE AFFIRMA-
11 TIVE, MODIFIED OR ENTIRELY DIFFERENT PLANS THAN THOSE CURRENTLY UNDER
12 CONSIDERATION. IN ADDITION, COMPLEMENTARY CONSULTATION STEPS MUST ALSO
13 BE TAKEN TO REACH THE GENERAL PUBLIC, WHICH SHALL INCLUDE, WITHOUT LIMIT-
14 TATION: DISTRIBUTING FLYERS THAT DESCRIBE THE PROPOSED PROJECT IN THE
15 AFFECTED AREA, ERECTING LARGE SIGNAGE CONTAINING PROJECT DETAILS AT THE
16 PROPOSED PROJECT SITE IN QUESTION, ATTENDING AND SPEAKING AT COMMUNITY
17 MEETINGS WHERE APPROPRIATE AND TAKING OUT FULL PAGE ADVERTISEMENTS IN NO
18 LESS THAN TWO LOCAL PAPERS THAT ARE LIKELY TO REACH THE AFFECTED
19 PARTIES. The corporation shall give primary consideration to local
20 needs and desires and shall foster local initiative and participation in
21 connection with the planning and development of its projects AT ALL
22 STAGES. Wherever possible, activities of the corporation shall be coordi-
23 nated with local urban renewal and other community projects, and the
24 corporation shall assist localities in carrying out such projects.
25 Consideration shall also be given to local and regional goals and poli-
26 cies as expressed in urban renewal, community renewal and local compre-
27 hensive land use plans and regional plans.

28 (2) Except with respect to a project consisting in whole or in part of
29 real property acquired by the corporation pursuant to section fourteen
30 of this act, before commencing the acquisition, construction, recon-
31 struction, rehabilitation, alteration or improvement of any project: (a)
32 upon adoption of the general project plan, the corporation shall file a
33 copy of such plan, including the findings required pursuant to section
34 ten of this act, in its corporate offices and in the office of the clerk
35 of any municipality in which the project is to be located, AS WELL AS
36 WITH ALL "SPECIFICALLY AFFECTED PARTIES" AS DEFINED ABOVE. Upon
37 request, any other person shall be furnished with a digest of such plan;
38 (b) pursuant to authorization from the chief executive officer of the
39 corporation, which authorization may be given prior to the adoption of
40 such plan by the corporation, the corporation shall: (i) publish in [one
41 newspaper] TWO NEWSPAPERS of general circulation within the municipi-
42 pality, (ii) provide to the chief executive officer of the municipality
43 within which the project is located, and (iii) in any city having a
44 population of one million or more, [provide to] ENGAGE IN DIRECT AND
45 PROACTIVE CONSULTATION, AS DEFINED ABOVE, WITH ALL SPECIFICALLY AFFECTED
46 PARTIES, INCLUDING any community board in which the project will be
47 located, INCLUDING BY PROVIDING a notice that such plan will be filed
48 upon its adoption by the corporation and that digests thereof will be
49 available, which notice shall also state that a public hearing will be
50 held to consider the plan at a specified time and place on a date not
51 less than [ten] SIXTY days after such publication; THE SIXTY DAY PERIOD
52 WILL COMMENCE WHEN THE COMMUNITY BOARDS, AFFECTED TENANTS AND ELECTED
53 OFFICIALS ALL CONFIRM WITH THE CORPORATION THAT THEY HAVE RECEIVED
54 NOTICE; (c) the corporation shall conduct a public hearing pursuant to
55 such notice, AND SHALL ENGAGE IN DIRECT AND PROACTIVE CONSULTATION WITH
56 "SPECIFICALLY AFFECTED PARTIES" FOR THE FULL SIXTY DAY PERIOD TO ENSURE

1 MAXIMUM PARTICIPATION AT SUCH HEARING; provided that such public hearing
2 shall not take place before the adoption or the filing of such plan by
3 the corporation; (d) [upon] ALL TESTIMONY RECEIVED AT THE HEARING,
4 WHETHER WRITTEN OR DELIVERED ORALLY AND INCLUDING WRITTEN TESTIMONY
5 SUBMITTED FOR A PERIOD OF THIRTY DAYS AFTER SUCH HEARING SHALL BE
6 REVIEWED AND ACTED ON BY THE CORPORATION. THE CORPORATION SHALL RESPOND
7 TO EACH SUBSTANTIVE COMMENT IN WRITING, INCLUDING ALL SUBSTANTIVE NEGA-
8 TIVE COMMENTS AND SHALL SHARE SUCH RESPONSE DOCUMENT WITH ALL "SPECIF-
9 ICALLY AFFECTED PARTIES". IF A SIGNIFICANT AMOUNT OF SUBSTANTIVE NEGA-
10 TIVE COMMENTS ARE RECEIVED, THE CORPORATION WILL, AFTER DUE
11 CONSIDERATION OF SUCH TESTIMONY AND COMMENT, AFFIRM, MODIFY OR WITHDRAW
12 THE PLAN IN THE MANNER PROVIDED FOR THE INITIAL FILING OF SUCH PLAN IN
13 PARAGRAPH (A) OF THIS SUBDIVISION. HOWEVER, BEFORE THE CORPORATION
14 AFFIRMS THE PLAN IT MUST HOLD A PUBLIC MEETING WITH THIRTY DAYS NOTICE
15 AND DIRECT AND PROACTIVE CONSULTATION WITH "SPECIFICALLY AFFECTED
16 PARTIES". AT SUCH MEETING, THE CORPORATION MUST EXPLAIN WHY THEY HAVE
17 NOT MODIFIED OR WITHDRAWN THE PLAN IN RESPONSE TO SUBSTANTIVE NEGATIVE
18 COMMENTS. UPON a written finding of the chief executive officer of the
19 corporation that no substantive negative testimony or comment has been
20 received at such public hearing, NOR IN THE THIRTY DAY WRITTEN COMMENT
21 PERIOD THEREAFTER, such plan shall be effective at the conclusion of
22 such [hearing; provided, however, that if any substantive negative
23 testimony or comment is received at such public hearing, the corporation
24 may, after due consideration of such testimony and comment, affirm,
25 modify or withdraw the plan in the manner provided for the initial
26 filing of such plan in paragraph (a) of this subdivision] TIMEFRAME.

27 (3) After DIRECT AND PROACTIVE consultation with local officials, as
28 provided in subdivision one of this section, the corporation and any
29 subsidiary thereof shall, in constructing, reconstructing, rehabilitat-
30 ing, altering or improving any project, comply with the requirements of
31 local laws, ordinances, codes, charters or regulations applicable to
32 such construction, reconstruction, rehabilitation, alteration or
33 improvement, provided however, that when, in the discretion of the
34 corporation, such compliance is not feasible or practicable, the corpo-
35 ration and any subsidiary thereof shall comply with the requirements of
36 the state building construction code, formulated by the state building
37 code council pursuant to article eighteen of the executive law, applica-
38 ble to such construction, reconstruction, rehabilitation, alteration or
39 improvement. In those circumstances where, in the discretion of the
40 corporation, such compliance with local laws, ordinances, codes, char-
41 ters or regulations is not feasible or practicable, and in the case of
42 any project where the corporation intends to acquire real property
43 pursuant to section thirteen of this act, the requirements of subdivi-
44 sion two of this section shall be complied with; provided, however, that
45 (a) the corporation shall provide a copy of the plan to the chief execu-
46 tive officer of any municipality within which the project is to be
47 located, the chairman of the planning board or commission of any such
48 municipality, or if there is no planning board or commission, to the
49 presiding officer of the local governing body and in any city having a
50 population of one million or more, to any community board in which the
51 project is located, and the public hearing to consider the plan required
52 pursuant thereto shall be held on thirty days notice following adoption
53 of the plan by the corporation; SUCH PUBLIC HEARING SHALL CONFORM TO ALL
54 OF THE DIRECT AND PROACTIVE CONSULTATION REQUIREMENTS AND THE PUBLIC
55 HEARING REQUIREMENTS AS DEFINED IN SUBDIVISIONS ONE AND TWO OF THIS
56 SECTION; (b) any person shall have the opportunity to present written

1 comments on the plan within thirty days after the public hearing; (c)
2 any municipality within which the project is to be located, by majority
3 vote of its planning board or commission, or in the event there is no
4 planning board or commission, by majority vote of its local governing
5 body, may recommend approval, disapproval or modification of the plan,
6 which recommendation shall be submitted in writing to the corporation
7 within thirty days after such hearing; and (d) after due consideration
8 of such testimony and comments and municipal recommendations, if any,
9 the corporation may affirm, modify or withdraw the plan in the manner
10 provided for the initial filing of such plan in paragraph (a) of subdi-
11 vision two of this section, provided, however that in the event any such
12 municipality has recommended disapproval or modification of the plan, as
13 provided herein, the corporation may affirm the plan only by a vote of
14 two-thirds of the directors thereof then in office. No municipality
15 shall have power to modify or change the drawings, plans or specifica-
16 tions for the construction, reconstruction, rehabilitation, alteration
17 or improvement of any project of the corporation or of any subsidiary
18 thereof, or the construction, plumbing, heating, lighting or other
19 mechanical branch of work necessary to complete the work in question,
20 nor to require that any person, firm or corporation employed on any such
21 work shall perform any such work in any other or different manner than
22 that provided by such plans and specifications, nor to require that any
23 such person, firm or corporation obtain any other or additional authori-
24 ty, approval, permit or certificate from such municipality in relation
25 to the work being done, and the doing of any such work by any person,
26 firm or corporation in accordance with the terms of such drawings,
27 plans, specifications or contracts shall not subject said person, firm
28 or corporation to any liability or penalty, civil or criminal, other
29 than as may be stated in such contracts or incidental to the proper
30 enforcement thereof; nor shall any municipality have power to require
31 the corporation or any subsidiary thereof, or lessee therefrom or
32 successor in interest thereto, to obtain any other or additional author-
33 ity, approval, permit, certificate or certificate of occupancy from such
34 municipality as a condition of owning, using, maintaining, operating or
35 occupying any project acquired, constructed, reconstructed, rehabili-
36 tated, altered or improved by the corporation or by any subsidiary ther-
37 eof. The foregoing provisions shall not preclude any municipality from
38 exercising the right of inspection for the purpose of requiring compli-
39 ance by any such project with local requirements for operation and main-
40 tenance, affecting the health, safety and welfare of the occupants ther-
41 eof, provided, however, that such compliance does not require changes,
42 modifications or additions to the original construction of such project.

43 (4) Each municipality or political subdivision, including but not
44 limited to a county, city, town, village or district, in which any
45 project of the corporation or of any subsidiary thereof is located,
46 shall provide for such project, whether then owned by the corporation,
47 any subsidiary thereof or any successor in interest thereto, police,
48 fire, sanitation, health protection and other municipal services of the
49 same character and to the same extent as those provided for other resi-
50 dents of such municipality or political subdivision.

51 (5) Notwithstanding the provisions of any general, special or local
52 law or charter, any municipality or any public corporation is hereby
53 empowered to purchase or lease for a term not exceeding ninety-nine
54 years a civic project, upon such terms and conditions as may be agreed
55 upon by such municipality or such public corporation and the corpo-
56 ration. No agreement for such purchase or lease shall be deemed to be a

1 contract for public work or purchase within the meaning of the general
2 municipal law. Nothing contained in this subdivision shall be deemed to
3 amend or supersede any other provision of law requiring a vote of the
4 qualified voters of any school district upon a proposed expenditure of
5 funds or incurring of indebtedness by such school district.
6 (6) In carrying out any project, the corporation and its subsidiaries
7 shall be empowered to enter into contractual agreements with munici-
8 palities and public corporations with respect to the furnishing of any
9 community, municipal or public facilities or services necessary or
10 desirable for such project, and any municipality or public corporation
11 is hereby authorized and empowered, notwithstanding any other law, to
12 enter into such contractual agreements with the corporation and its
13 subsidiaries and to do all things necessary to carry out its obligations
14 under the same.
15 S 2. This act shall take effect immediately.