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

1099

2015-2016 Regular Sessions

I N S E N A T E

January 8, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the administrative code of the city of New York, in relation to the filing of deeds containing restrictive covenants

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

Section 1. The administrative code of the city of New York is amended by adding a new section 27-106 to read as follows:

S 27-106 REGISTRY OF DEEDS WITH RESTRICTIVE COVENANTS. (A) THE DEPARTMENT SHALL MAINTAIN A REGISTRY OF ALL DEEDS CONTAINING RESTRICTIVE CONVENTS THAT ARE FILED WITH THE DEPARTMENT. ANY SUCH FILING SHALL NOT BE DEEMED AS ACCEPTABLE IN LIEU OF ANY OTHER FILING REQUIREMENTS MANDATED OR PERMITTED UNDER ANY OTHER PROVISION OF LAW, RULE OR REGULATION. A DEED CONTAINING ONE OR MORE RESTRICTIVE COVENANTS MAY BE FILED WITH THE DEPARTMENT FOR INCLUSION IN THIS REGISTRY BY ANY OWNER OR HOMEOWNER ASSOCIATION WHOSE PROPERTY IS SUBJECT TO A RESTRICTIVE COVENANT AND/OR BY OR ON BEHALF OF A NEIGHBORHOOD ASSOCIATION OR CIVIC ASSOCIATION WHOSE AREA OF GEOGRAPHIC CONCERN, AS SET FORTH IN ITS CERTIFICATE OF INCORPORATION, CHARTER OR OTHER RELEVANT ORGANIZING DOCUMENT, ENCOMPASSES THE PROPERTY THAT IS THE SUBJECT OF SUCH RESTRICTIVE COVENANT. THE FILING SHALL BE ACCOMPANIED BY A NOTARIZED REGISTRATION STATEMENT ACKNOWLEDGING THE AUTHENTICITY OF SUCH DEED. THIS REGISTRY SHALL BE MADE AVAILABLE TO THE PUBLIC DURING REGULAR BUSINESS HOURS.

(B) PRIOR TO THE ISSUANCE OF ANY PERMIT, EMPLOYEES OF THE DEPARTMENT SHALL SEARCH THE REGISTRY CREATED PURSUANT TO SUBDIVISION (A) OF THIS SECTION FOR THE PURPOSE OF DETERMINING WHETHER ANY DEED LISTED IN THIS REGISTRY CONTAINS ANY RESTRICTIVE COVENANT THAT WOULD BE VIOLATED BY THE ISSUANCE OF THE REQUESTED PERMIT OR THE COMPLETION OF THE PROJECT FOR WHICH SUCH PERMIT IS SOUGHT. IF A VIOLATION OF ANY SUCH RESTRICTIVE COVENANT WOULD OCCUR, THEN THE DEPARTMENT SHALL NOT ISSUE SUCH PERMIT

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

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EXCEPT AS AUTHORIZED BY ORDER OF A COURT OF COMPETENT JURISDICTION. ANY OWNER OR HOMEOWNER ASSOCIATION WHOSE PROPERTY IS THE SUBJECT OF SUCH RESTRICTIVE COVENANT, OR ANY NEIGHBORHOOD ASSOCIATION OR CIVIC ASSOCIATION WHOSE AREA OF CONCERN ENCOMPASSES THE PROPERTY THAT IS THE SUBJECT OF SUCH RESTRICTIVE COVENANT, SHALL BE BARRED FROM COLLECTING DAMAGES AGAINST THE CITY FOR THE FAILURE TO ENFORCE THE RESTRICTIONS CONTAINED IN SUCH RESTRICTIVE COVENANT IF SUCH RESTRICTIVE COVENANT HAS NOT BEEN FILED WITH THE DEPARTMENT. THE DEPARTMENT SHALL PROMULGATE ANY ADDITIONAL RULES FOR THE IMPLEMENTATION OF THIS SECTION.

(C) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT OR REDUCE THE RIGHTS OF ANY OWNER OR HOMEOWNER ASSOCIATION WHOSE AREA OF GEOGRAPHIC CONCERN ENCOMPASSES THE PROPERTY THAT IS SUBJECT OF SUCH RESTRICTIVE COVENANT OR COVENANTS TO INITIATE AND MAINTAIN LEGAL ACTION TO ENFORCE ANY SUCH COVENANT OR COVENANTS.

S 2. This act shall take effect immediately.