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

4891

2015-2016 Regular Sessions

I N S E N A T E

April 23, 2015

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the eminent domain procedure law, in relation to designating blighted property and blighted areas; to amend the New York state urban development corporation act, in relation to the definition of blight and substandard or insanitary area; and to amend the general municipal law and the New York state urban development and research corporation act, in relation to substandard and insanitary areas

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

Section 1. Section 103 of the eminent domain procedure law is amended by adding a new subdivision (H) to read as follows:

(H) "BLIGHTED PROPERTY" AND "BLIGHTED AREA" MEANS PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER.

S 2. Subdivision (B) of section 204 of the eminent domain procedure law is amended by adding a new closing paragraph to read as follows:

A CONDEMNOR SHALL NOT TAKE ACTION AGAINST A PROPERTY OR AREA WHEN THE PUBLIC USE, BENEFIT, OR PURPOSE TO BE SERVED BY THE PROPOSED PUBLIC PROJECT IS TO REMEDY BLIGHT, UNLESS SUCH PROPERTY OR AREA SATISFIES THE DEFINITION OF "BLIGHTED PROPERTY OR BLIGHTED AREA" AS DEFINED BY SECTION TWO HUNDRED FOUR-A OF THIS ARTICLE. THE CONDEMNOR SHALL INCLUDE SUCH FINDINGS IN ITS DETERMINATION AND FINDINGS PURSUANT TO THIS SUBDIVISION IN ORDER TO TAKE ACTION AGAINST AN AREA OR PROPERTY TO REMEDY BLIGHT.

S 3. The eminent domain procedure law is amended by adding a new section 204-a to read as follows:

S 204-A. BLIGHTED PROPERTY AND BLIGHTED AREAS. (A) SUBJECT TO THE EXCEPTIONS LISTED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION, ANY SINGLE PROPERTY MAY BE DECLARED BLIGHTED IF:

(1) (A) (I) THE PROPERTY IS UNFIT FOR HUMAN HABITATION DUE TO IDENTIFIABLE CONDITIONS THAT ENDANGER THE LIFE, HEALTH AND SAFETY OF THE OWNERS, OCCUPANTS, OR GENERAL PUBLIC. CONDITIONS RENDERING PROPERTY

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

LBD07039-06-5

UNFIT FOR HUMAN HABITATION INCLUDE, BUT ARE NOT LIMITED TO, STRUCTURAL DEFECTS, DILAPIDATION, DETERIORATION, VERMIN INFESTATION, HEALTH HAZARDS, FIRE HAZARDS, LACK OF PROPER SANITARY FACILITIES, OBSOLETE SYSTEMS OF UTILITIES, OR INADEQUATE MAINTENANCE; OR

(II) THE PROPERTY HAS DETERIORATED TO THE POINT WHERE:

1. THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT TO LIFE OR OTHER PROPERTY; OR

2. THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABILITATION MARKET VALUE.

(B) THE OWNER FAILS TO REMEDY SUBPARAGRAPH (A) OF THIS PARAGRAPH WITHIN A REASONABLE TIME AFTER RECEIVING NOTICE OF VIOLATION BY THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO:

(I) REHABILITATE THE BUILDING TO CONFORM TO MINIMUM CODE HABITABILITY REQUIREMENTS; OR

(II) DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS.

(2) THE PROPERTY IS ABANDONED. PROPERTY SHALL BE DEEMED ABANDONED IF:

(A) PROPERTY IS UNOCCUPIED AND HAS BEEN TAX DELINQUENT FOR AT LEAST TWO YEARS; OR

(B) A BUILDING IS UNOCCUPIED BY THE OWNER OR TENANTS, IS UNFIT FOR HUMAN HABITATION, AND HAS DETERIORATED TO THE POINT WHERE:

(I) THE BUILDING IS STRUCTURALLY UNSOUND OR POSES AN IMMEDIATE THREAT TO LIFE OR OTHER PROPERTY; OR

(II) THE COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE POST-REHABILITATION MARKET VALUE; AND

(III) THE OWNER IS UNKNOWN OR THE OWNER FAILS TO RESPOND WITHIN SIX MONTHS TO A VIOLATION NOTICE FROM THE APPROPRIATE GOVERNING BODY REQUIRING THE OWNER TO:

1. REHABILITATE THE BUILDING TO CONFORM TO MINIMUM HABITABILITY REQUIREMENTS; OR

2. DEMOLISH THE BUILDING FOR HEALTH AND SAFETY REASONS.

(3) A VACANT LOT ON WHICH A BUILDING HAS BEEN DEMOLISHED AND FOR WHICH A MUNICIPAL LIEN FOR DEMOLITION COSTS REMAINS UNPAID FOR SIX MONTHS.

(4) PROPERTY THAT IS ENVIRONMENTALLY CONTAMINATED REQUIRING REMEDIATION FOR CURRENT OR FUTURE USE UNDER STATE OR FEDERAL LAW, IF THE OWNER FAILS TO REMEDY THE PROBLEM WITHIN SIX MONTHS OF RECEIVING NOTICE OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

(5) A PREMISES WHICH, BECAUSE OF PHYSICAL CONDITION OR USE, IS REGARDED AS A PUBLIC NUISANCE AT COMMON LAW OR HAS BEEN DECLARED A PUBLIC NUISANCE UNDER A STATUTE OR AN APPLICABLE MUNICIPAL CODE, AND THE OWNER FAILS TO ABATE THE NUISANCE WITHIN SIX MONTHS OF RECEIVING NOTICE OF VIOLATION FROM THE APPROPRIATE GOVERNING BODY.

(6) DEFECTIVE OR UNUSUAL CONDITIONS OF TITLE THAT MAKE THE FREE TRANSFER OR ALIENATION OF THE PROPERTY IMPOSSIBLE.

(7) PROPERTY THAT IS OCCUPIED OR UNOCCUPIED HAS TAX DELINQUENCIES EXCEEDING THE VALUE OF THE PROPERTY.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION, THE FOLLOWING EXCEPTIONS SHALL APPLY:

(1) PROPERTY SHALL IN NO CASE BE DECLARED BLIGHTED IF IT MEETS ONE OR MORE OF THE FOLLOWING CRITERIA:

(A) VACANT AND UNIMPROVED PROPERTY LOCATED IN ANY RURAL OR SUBURBAN AREA WHICH IS NOT SERVED BY EXISTING UTILITIES.

(B) PROPERTY WHICH SATISFIES THE DEFINITION OF "FARM WOODLAND", "LAND USED IN AGRICULTURAL PRODUCTION", "UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND", OR "VIABLE AGRICULTURAL LAND", AS THOSE TERMS ARE DEFINED IN SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

(2) FOR PURPOSES OF THIS SECTION, IF A DEVELOPER OR CONDEMNER INVOLVED IN A REDEVELOPMENT PROJECT HAS CAUSED OR BROUGHT ABOUT BY ACTION OR INACTION OR MAINTAINED FOR MORE THAN SEVEN YEARS A CONDITION LISTED IN SUBDIVISION (A) OF THIS SECTION WITHIN THE PROPOSED PROJECT AREA, THAT CONDITION MAY NOT BE USED IN THE DETERMINATION OF BLIGHT.

(3) FOR PURPOSES OF THIS SECTION, IF PROPERTY LOCATED IN AN URBANIZED AREA GENERALLY SERVED BY MUNICIPAL INFRASTRUCTURE AND UTILITIES MEETS ONE OR MORE OF THE CONDITIONS LISTED IN SUBDIVISION (A) OF THIS SECTION DUE TO FAILURE ON THE PART OF THE APPROPRIATE GOVERNING BODY TO PROVIDE NECESSARY UTILITY SERVICES AND/OR INFRASTRUCTURE, THAT CONDITION MAY NOT BE USED IN THE DETERMINATION OF BLIGHT.

(C) MULTIPLE PROPERTIES AND PROJECT AREAS MAY BE DECLARED BLIGHTED.

(1) A CONDEMNER MAY USE EMINENT DOMAIN TO ACQUIRE ANY UNIT OF PROPERTY WITHIN A BLIGHTED PROJECT AREA.

(2) FOR PURPOSES OF ACQUIRING MULTIPLE UNITS OF PROPERTY BY EMINENT DOMAIN, AN AREA MAY BE DECLARED GENERALLY BLIGHTED ONLY IF A MAJORITY OF THE INDIVIDUAL PARCELS IN THE AREA ARE DECLARED BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION AND REPRESENT A MAJORITY OF THE GEOGRAPHIC AREA OF THE PROJECT.

(3) PROPERTIES OWNED BY A DEVELOPER OR CONDEMNER INVOLVED IN A REDEVELOPMENT PROJECT MAY BE INCLUDED IN ANY BLIGHTED PROJECT AREA DETERMINATION.

(D) FOR PURPOSES OF THIS SECTION, A BUILDING CONTAINING MULTIPLE UNITS SHALL BE TREATED AS A SINGLE PROPERTY.

(E) BEFORE A PROPERTY MAY BE DECLARED BLIGHTED PURSUANT TO THIS SECTION, THE CONDEMNER SHALL:

(1) IN THE CASE OF A SINGLE PROPERTY, MAKE WRITTEN FINDINGS IDENTIFYING THE SPECIFIC CONDITIONS WHICH RENDER THE PROPERTY BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION;

(2) IN THE CASE OF MULTIPLE PROPERTIES OR PROJECT AREAS, MAKE WRITTEN FINDINGS DEMONSTRATING THAT THE CONDITIONS OF SUBDIVISION (C) HAVE BEEN MET. IN ORDER TO DEMONSTRATE THAT A MAJORITY OF THE INDIVIDUAL PARCELS ARE BLIGHTED AND COMPRISE A MAJORITY OF THE GEOGRAPHICAL AREA OF THE PROJECT, EACH BLIGHTED PROPERTY MUST BE IDENTIFIED AND THE SPECIFIC CONDITIONS RENDERING IT BLIGHTED UNDER SUBDIVISION (A) OF THIS SECTION MUST BE IDENTIFIED.

(F) ANY DECLARATION MADE PURSUANT TO THIS SECTION SHALL BE VALID FOR A PERIOD OF UP TO FIFTEEN YEARS.

S 4. Section 206 of the eminent domain procedure law, subdivision (E) as added by chapter 468 of the laws of 1978, is amended to read as follows:

S 206. Exemptions. The condemnor shall be exempt from compliance with the provisions of this article when:

(A) pursuant to other state, federal, or local law or regulation it considers and submits factors [similar to those] enumerated in subdivision (B) of section two hundred four, to a state, federal or local governmental agency, board or commission before proceeding with the acquisition and obtains a license, a permit, a certificate of public convenience or necessity or other similar approval from such agency, board, or commission or;

(B) pursuant to article VII [or article VIII] of the public service law it obtained a certificate of environmental compatibility and public need or;

(C) pursuant to other law or regulation it undergoes or conducts [or offers to conduct] prior to an acquisition one or more public hearings upon notice to the public and owners of property to be acquired, and

provided further that factors [similar to those] enumerated in subdivision (B) of section two hundred four herein [may] SHALL be considered at such public hearings, or;

(D) when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project or because of an emergency situation the public interest will be endangered by any delay caused by the public hearing requirement in this article.

(E) when it complies with the procedures contained in section 41.34 of the mental hygiene law.

S 5. Section 3 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new subdivision 31 to read as follows:

(31) "BLIGHTED PROPERTY" AND "BLIGHTED AREA". PROPERTY THAT IS DECLARED BLIGHTED UNDER SECTION 204-A OF THE EMINENT DOMAIN PROCEDURE LAW.

S 6. Subdivision 12 of section 3 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended to read as follows:

(12) "Substandard or insanitary area". The term "substandard or insanitary area" shall mean and be interchangeable with a [slum,] blighted[, deteriorated or deteriorating] area, or an area which has a blighting influence on the surrounding area, whether residential, non-residential, commercial, industrial, vacant or land in highways, waterways, railway and subway tracks and yards, bridge and tunnel approaches and entrances, or other similar facilities, over which air rights and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for the elimination of the blighting influence, or any combination thereof and may include land, buildings or improvements, or air rights and concomitant easements or other rights of user necessary for the use and development of such air rights not in themselves substandard or insanitary.

S 7. The second and the sixth undesignated paragraphs of section 2 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, are amended to read as follows:

It is further found and declared that there exist in many municipalities within this state residential, nonresidential, commercial, industrial or vacant areas, and combinations thereof, which are [slum or] blighted, or which are becoming [slum or] blighted areas because of substandard[,] OR insanitary CONDITIONS, [deteriorated or deteriorating conditions, including obsolete and dilapidated buildings and structures, defective construction, outmoded design, lack of proper sanitary facilities or adequate fire or safety protection, excessive land coverage, insufficient light and ventilation, excessive population density, illegal uses and conversions, inadequate maintenance, buildings abandoned or not utilized in whole or substantial part, obsolete systems of utilities, poorly or improperly designed street patterns and intersections, inadequate access to areas, traffic congestion hazardous to the public safety, lack of suitable off-street parking, inadequate loading and unloading facilities, impractical street widths, sizes and shapes, blocks and lots of irregular form, shape or insufficient size, width or depth, unsuitable topography, subsoil or other physical conditions, all of] which hamper or impede proper and economic development of such areas and which impair or arrest the sound growth of the area, community or municipality, and the state as a whole.

It is further declared to be the policy of the state to promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities through the correction of such substandard, insanitary[,] OR blighted[, deteriorated or deteriorating] conditions, factors and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, and of areas reasonably accessible thereto the undertaking of public and private improvement programs related thereto, including the provision of educational, recreational and cultural facilities, and the encouragement of participation in these programs by private enterprise.

S 8. Paragraph (d) of subdivision 6 of section 16-n of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 2 of part C-2 of chapter 109 of the laws of 2006, is amended to read as follows:

(d) A municipality that is granted an award or awards under this section shall provide a matching contribution of no less than ten percent of the aggregated award or awards amount. Such matching contribution may be in the form of a financial and/or in kind contribution. Financial contributions may include grants from federal, state and local entities. In kind contributions may include but shall not be limited to the efforts of municipalities to conduct an inventory and assessment of vacant, abandoned, surplus, AND condemned[, and deteriorated] properties and to manage and administer grants pursuant to subdivisions four and five of this section.

S 9. Section 501 of the general municipal law, as added by chapter 402 of the laws of 1961, is amended to read as follows:

S 501. Policy and purposes of article. There exist in many municipalities within this state residential, non-residential, commercial, industrial or vacant areas, and combinations thereof, which are [slum or] blighted, or which are becoming [slum or] blighted areas because of substandard[,] OR insanitary[, deteriorated or deteriorating] conditions, factors, and characteristics, with or without tangible physical blight. The existence of such areas constitutes a serious and growing menace, is injurious to the public safety, health, morals and welfare, contributes increasingly to the spread of crime, juvenile delinquency and disease, necessitates excessive and disproportionate expenditures of public funds for all forms of public service and constitutes a negative influence on adjacent properties impairing their economic soundness and stability, thereby threatening the source of public revenues.

In order to protect and promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities, it is necessary to correct such substandard, insanitary, OR blighted[, deteriorated or deteriorating] conditions, factors and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, the undertaking of public and private improvement programs related thereto and the encouragement of participation in these programs by private enterprise.

It is necessary for the accomplishment of such purposes to grant municipalities of this state the rights and powers provided in this article. The use of such rights and powers to correct such conditions, factors and characteristics and to eliminate or prevent the development and spread of [deterioration and] blight through the clearance, replanning, reconstruction, rehabilitation, conservation or renewal of such areas, for residential, commercial, industrial, community, public and other

uses is a public use and public purpose essential to the public interest, and for which public funds may be expended.

S 10. Subdivision 4 of section 502 of the general municipal law, as amended by chapter 748 of the laws of 1967, is amended to read as follows:

4. "Substandard or insanitary area." The term "substandard or insanitary area" shall mean and be interchangeable with a [slum,] blighted[, deteriorated or deteriorating] area, or an area which has a blighting influence on the surrounding area, whether residential, non-residential, commercial, industrial, vacant, or land in highways, railway and subway tracks, bridge and tunnel approaches and entrances, or other similar facilities, over which air rights and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for the elimination of the blighting influence, or any combination thereof and may include land, buildings or improvements, or air rights and concomitant easements or other rights of user necessary for the use and development of such air rights, not in themselves substandard or insanitary, the inclusion of which is deemed necessary for the effective undertaking of one or more urban renewal programs.

S 11. Paragraph (a) of subdivision 5 of section 510 of the general municipal law, as amended by chapter 829 of the laws of 1968, is amended to read as follows:

(a) Notwithstanding anything contained in this article to the contrary, the commissioner may in the name of the state, within appropriations heretofore or hereafter made for state capital grants to assist in carrying out one or more local urban renewal programs, make or contract to make state capital grants to municipalities to assist in financing the cost of the preparation and completion of one or more community renewal programs.

A community renewal program may include, without being limited to (1) the identification of [slum areas or] blighted[, deteriorated, or deteriorating] areas in the community, (2) the measurement of the nature and degree of blight and blighting factors within such areas, (3) determination of the financial, relocation, and other resources needed and available to renew such areas, (4) the identification of potential project areas and, where feasible, types of urban renewal action contemplated within such areas, and (5) scheduling or programming of urban renewal activities.

S 12. Section 520 of the general municipal law, as added by chapter 402 of the laws of 1961, is amended to read as follows:

S 520. Construction. This article shall be construed liberally to effect the purposes hereof and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this chapter or to exclude other powers comprehended in such general grant. In construing this chapter consideration shall be given to its purposes and intent, among others, of consolidating, clarifying and simplifying the respective provisions of the chapters repealed as hereinafter specified in section five hundred twenty-five hereof and of authorizing municipalities to undertake one or more programs of urban renewal with respect to the clearance, replanning, reconstruction, rehabilitation, redevelopment, conservation, restoration or improvement of substandard, insanitary, [slum,] OR blighted[, deteriorated or deteriorating] residential, non-residential, improved or vacant areas, or the remedying of unsuitable topographical, subsoil or other physical conditions which tend to impede the development of such

areas, for residential, commercial, industrial, community, public and other uses and to apply for and accept federal or state loans, subsidies or grants in connection therewith. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article shall be controlling.

S 13. The third undesignated paragraph of section 2 of section 1 of chapter 173 of the laws of 1968, constituting the New York state urban development and research corporation act, is amended to read as follows:

The legislature hereby declares it to be the policy of this state to provide an adequate supply of safe and sanitary dwelling accommodations; to increase job opportunities and protect against involuntary unemployment and underemployment by promoting, attracting, stimulating and revitalizing business, commerce, industry and manufacturing in the urban areas of the state; and to arrest the spread of [deterioration and] blight and promote the economic and physical development of such areas through the construction, reconstruction, rehabilitation and improvement of residential, commercial and industrial structures and facilities therein.

S 14. This act shall take effect immediately.