# STATE OF NEW YORK

5253--A

2019-2020 Regular Sessions

# IN ASSEMBLY

February 8, 2019

Introduced by M. of A. BARNWELL -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT making a community boards decision regarding the denial of an application of uniform land use review procedures final and binding

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. (a) (i) Notwithstanding any provision of law to the contrary, within cities having a population of 200,000 or greater as well as cities within all counties covered by the Emergency Tenant Protection Act of 1974 with a population of 50,000 or greater and that have or are governed by a land use process similar to the New York City Uniform Land Use Review Procedure or a process otherwise involving a local community board or its equivalent included in land use decisions, such local community board's decision to deny any application to rezone or alter the use and/or size, of such property shall be final and binding on any applicant and shall constitute a final and binding denial of such application for a rezoning or alteration of property where such application seeks the rezoning or alteration of property use and/or size for a residential project offering for sale or rental any units to persons or families with incomes at or above 60% of the area median income for the zip code in which the property is located. If the rezoning or alteration of property proposed, proposes to result in the construction of any residential housing project offering for sale or rental any units to persons or families with incomes at or above 60% of the area median income for the zip code in which the property is located, the community board's or its equivalent's denial of such application shall be final, provided that the community board or its equivalent bases its denial of the application on any of the following grounds:

(A) Following a public hearing and the opportunity to submit testimony and other materials, the local community board determines that, based on

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

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the area median income for the zip code to which the application pertains, any rezoning or property use alteration resulting from the granting of the application would not result in the construction of housing, on average, affordable to 50% or more of residents residing in the zip code at the time of the application; for the purpose of this subsection, housing is "affordable" if it meets the federal standard of costing a tenant or homeowner no more than 30% of his or her income for rent or mortgage payments, including the cost of utilities;

(B) Following a public hearing and the opportunity to submit testimony and other materials, the local community board determines that any rezoning or property use alteration resulting from the granting of the application would perpetuate discriminatory housing patterns under the standards set forth in the federal affirmatively furthering fair housing regulation or the federal disparate impact rule;

(C) Following a public hearing and the opportunity to submit testimony and other materials, the local community board determines that any rezoning or property use alteration resulting from the granting of the application would result in a net population increase of 5% or greater within the zip code to which the application pertains and that current public infrastructure within the zip code cannot support such a population increase; or

(D) Following a public hearing and the opportunity to submit testimony and other materials, the local community board determines that any rezoning or property use alteration would result in displacement of more than 500 residents or 100 employees working within the zip code to which the application pertains.

(ii) For the avoidance of doubt, a local community board or its equivalent shall have the power of denial with final and binding effect created under this section only if it denies an application based upon any of the criteria set forth above.

(b) For the purposes of this section, the area median income for a zip code shall be established by the United States department of housing and urban development or a successor agency.

(c) In the event the property is located in multiple zip codes, the zip code with the lesser area median income shall be used for the purposes of this section.

§ 2. This act shall take effect immediately and shall apply to applications received on or after such effective date.