STATE OF NEW YORK

6670

2023-2024 Regular Sessions

IN ASSEMBLY

April 28, 2023

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Local Governments

AN ACT to amend the general city law, the town law and the village law, in relation to transit-oriented development

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

Section 1. Short title. This act shall be known and may be cited as the "Transit-Oriented Development act of 2023".

§ 2. The general city law is amended by adding a new section 20-h to read as follows:

§ 20-h. Transit-oriented development. 1. (a) Notwithstanding the provisions of any general, special, charter, local, or other law, including the common law, to the contrary, all cities shall permit the construction and occupation of dwelling units with a density of at least twenty-five dwelling units per acre, on any land wherein residential construction and occupation is otherwise permitted if such land is within one-half mile of any covered transportation facility.

(b) For the purposes of this subdivision, a "covered transportation center" shall be defined as:

(i) any rail station owned, operated or otherwise served by the New Jersey transit corporation, or the metropolitan transportation authority and its affiliated or subsidiary authorities, including, but not limited to, the Metro-North railroad and the port authority of New York and New Jersey, but not including the Long Island Rail Road, where such station is not operated on a seasonal basis and such station is located between one-half mile and sixty miles from the nearest border of a city with a population of greater than one million people, as measured on a straight line from such city's nearest border to such rail station; or

(ii) any bus stop or station with designated parking for riders located between one-half mile and sixty miles from the nearest

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

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border of a city with a population greater than one million people as measured on a straight line from such city's nearest border to such bus stop or station; or

(iii) any rail station owned, operated or otherwise served by the Long Island Rail Road that is not located within a city with a population greater than one million people.

2. No city shall impose restrictions that effectively prevent the construction or occupation of such dwellings, including, but not limited to height, setbacks, floor area ratios, or parking. Nothing in this section shall be interpreted to override the New York State Environmental Quality Review Act or the New York State Uniform Fire Prevention and Building Code Act, or regulations promulgated in accordance with any such act, nor require the alteration or demolition of buildings designated as historical sites as of the date the act that created this section was enacted pursuant to the New York State Historic Preservation Act of 1980, as amended, or the National Historic Preservation Act of 1966, as amended.

3. A city's written or other comprehensive plan, zoning regulations, special use permit regulations, subdivision regulations, site plan review regulations, or any planning, zoning, or other land use tools enacted under this title, the municipal home rule law, or any general, special or other law, as applicable, shall conform to the requirements set forth in this section.

4. (a) Upon a failure of a local government to act upon an application to construct or occupy residences in accordance with this section, or denial of such application in violation of this section, any party aggrieved by any such failure or denial may commence a special proceeding against the subject local government and the officer pursuant to article seventy-eight of the civil practice law and rules, in the supreme court within the judicial district in which the local government or the greater portion of the territory is located, to compel compliance with the provisions of this section.

(b) If, upon commencement of such proceeding, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence and determine the matter. Alternatively, the court may appoint a hearing officer pursuant to article forty-three of the civil practice law and rules to take such evidence as it may direct and report the same to the court with the hearing officer's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify any decision brought to the court for review.

(c) Costs shall not be allowed against the local government and the officer whose failure or refusal gave rise to the special proceeding, unless it shall appear to the court that the local government and its officer acted with gross negligence or in bad faith or with malice.

§ 3. The town law is amended by adding a new section 261-d to read as follows:

§ 261-d. Transit-oriented development. 1. (a) Notwithstanding the provisions of any general, special, charter, local, or other law, including the common law, to the contrary, all towns shall permit the construction and occupation of dwelling units with a density of twenty-five dwelling units per acre or more, on any land wherein residential construction and occupation is otherwise permitted if such land is within one-half mile of any covered transportation facility.

(b) For the purposes of this subdivision, a "covered transportation center" shall be defined as:

(i) any rail station owned, operated or otherwise served by the New Jersey transit corporation, or the metropolitan transportation authority and its affiliated or subsidiary authorities, including, but not limited to, the Metro-North railroad and the port authority of New York and New Jersey, but not including the Long Island Rail Road, where such station is not operated on a seasonal basis and such station is located between one-half mile and sixty miles from the nearest border of a city with a population of greater than one million people, as measured on a straight line from such city's nearest border to such rail station; or

(ii) any bus stop or station with designated parking for riders located between one-half mile and sixty miles from the nearest border of a city with a population greater than one million people as measured on a straight line from such city's nearest border to such bus stop or station; or

(iii) any rail station owned, operated or otherwise served by the Long Island Rail Road that is not located within a city with a population greater than one million people.

2. No town shall impose restrictions that effectively prevent the construction or occupation of such dwellings, including, but not limited to height, setbacks, floor area ratios, or parking. Nothing in this section shall be interpreted to override the New York State Environmental Quality Review Act or the New York State Uniform Fire Prevention and Building Code Act, or regulations promulgated in accordance with any such act, nor require the alteration or demolition of buildings designated as historical sites as of the date the act that created this section was enacted pursuant to the New York State Historic Preservation Act of 1980, as amended, or the National Historic Preservation Act of 1966, as amended.

3. A town's written comprehensive plan, zoning regulations, special use permit regulations, subdivision regulations, site plan review regulations, or any planning, zoning, or other land use tools enacted under this title, the municipal home rule law, or any general, special or other law, as applicable, shall conform to the requirements set forth in this section.

4. (a) Upon a failure of a local government to act upon an application to construct or occupy residences in accordance with this section, or denial of such application in violation of this section, any party aggrieved by any such failure or denial may commence a special proceeding against the subject local government and the officer pursuant to article seventy-eight of the civil practice law and rules, in the supreme court within the judicial district in which the local government or the greater portion of the territory is located, to compel compliance with the provisions of this section.

(b) If, upon commencement of such proceeding, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence and determine the matter. Alternatively, the court may appoint a hearing officer pursuant to article forty-three of the civil practice law and rules to take such evidence as it may direct and report the same to the court with the hearing officer's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify any decision brought to the court for review.

(c) Costs shall not be allowed against the local government and the officer whose failure or refusal gave rise to the special proceeding, unless it shall appear to the court that the local government and its officer acted with gross negligence or in bad faith or with malice.

§ 4. The village law is amended by adding a new section 7-700-a to read as follows:

§ 7-700-a Transit-oriented development. 1. (a) Notwithstanding the provisions of any general, special, charter, local, or other law, including the common law, to the contrary, all villages shall permit the construction and occupation of dwelling units with a density of at least twenty-five dwelling units per acre, on any land wherein residential construction and occupation is otherwise permitted if such land is within one-half mile of any covered transportation facility.

(b) For the purposes of this subdivision, a "covered transportation center" shall be defined as:

(i) any rail station owned, operated or otherwise served by the New Jersey transit corporation, or the metropolitan transportation authority and its affiliated or subsidiary authorities, including, but not limited to, the Metro-North railroad and the port authority of New York and New Jersey, but not including the Long Island Rail Road, where such station is not operated on a seasonal basis and such station is located between one-half mile and sixty miles from the nearest border of a city with a population of greater than one million people, as measured on a straight line from such city's nearest border to such rail station; or

(ii) any bus stop or station with designated parking for riders located between one-half mile and sixty miles from the nearest border of a city with a population greater than one million people as measured on a straight line from such city's nearest border to such bus stop or station; or

(iii) any rail station owned, operated or otherwise served by the Long Island Rail Road that is not located within a city with a population greater than one million people.

2. No village shall impose restrictions that effectively prevent the construction or occupation of such dwellings, including, but not limited to height, setbacks, floor area ratios, or parking. Nothing in this section shall be interpreted to override the New York State Environmental Quality Review Act or the New York State Uniform Fire Prevention and Building Code Act, or regulations promulgated in accordance with any such act, nor require the alteration or demolition of buildings designated as historical sites as of the date the act that created this section was enacted pursuant to the New York State Historic Preservation Act of 1980, as amended, or the National Historic Preservation Act of 1966, as amended.

3. A village's written or other comprehensive plan, zoning regulations, special use permit regulations, subdivision regulations, site plan review regulations, or any other planning, zoning, or other land use tools enacted under this article, the municipal home rule law, or any general, special or other law, as applicable, shall conform to the requirements set forth in this section.

4. (a) Upon a failure of a local government to act upon an application to construct or occupy residences in accordance with this section, or denial of such application in violation of this section, any party aggrieved by any such failure or denial may commence a special proceeding against the subject local government and the officer pursuant to article seventy-eight of the civil practice law and rules, in the

supreme court within the judicial district in which the local government or the greater portion of the territory is located, to compel compliance with the provisions of this section.

(b) If, upon commencement of such proceeding, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence and determine the matter. Alternatively, the court may appoint a hearing officer pursuant to article forty-three of the civil practice law and rules to take such evidence as it may direct and report the same to the court with the hearing officer's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify any decision brought to the court for review.

(c) Costs shall not be allowed against the local government and the officer whose failure or refusal gave rise to the special proceeding, unless it shall appear to the court that the local government and its officer acted with gross negligence or in bad faith or with malice.

§ 5. This act shall take effect one year after the date upon which it shall have become a law.