

AMENDED COPY AS OF 8/29/2022

Intro. Res. No. 1560-2022
Introduced by Legislator Bergin

Laid on Table 6/22/2022

**RESOLUTION NO. -2022, ADOPTING LOCAL LAW
NO. -2022, A LOCAL LAW TO AMEND ARTICLES 40 AND
36 OF THE SUFFOLK COUNTY CODE TO IMPROVE THE
COUNTY'S §72-H TRANSFER PROGRAM FOR AFFORDABLE
HOUSING BY PROVIDING NOTICE TO MUNICIPALITIES
REGARDING AVAILABLE PARCELS AND CREATING AN
APPROVED LIST OF AFFORDABLE HOUSING DEVELOPERS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 22, 2022, a proposed local law entitled, "**A LOCAL LAW TO AMEND ARTICLES 40 AND 36 OF THE SUFFOLK COUNTY CODE TO IMPROVE THE COUNTY'S §72-H TRANSFER PROGRAM FOR AFFORDABLE HOUSING BY PROVIDING NOTICE TO MUNICIPALITIES REGARDING AVAILABLE PARCELS AND CREATING AN APPROVED LIST OF AFFORDABLE HOUSING DEVELOPERS**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2022, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO AMEND ARTICLES 40 AND 36 OF THE SUFFOLK
COUNTY CODE TO IMPROVE THE COUNTY'S §72-H TRANSFER
PROGRAM FOR AFFORDABLE HOUSING BY PROVIDING NOTICE
TO MUNICIPALITIES REGARDING AVAILABLE PARCELS AND
CREATING AN APPROVED LIST OF AFFORDABLE HOUSING
DEVELOPERS**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY
OF SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature finds the lack of affordable housing is a serious problem affecting communities throughout Suffolk County. Families have seen their children and seniors leave Long Island for more affordable locations and businesses face a shrinking workforce that can afford to work and live on Long Island. Businesses have suffered in that the number of people who can afford to live and work at entry level positions has been drastically reduced.

This Legislature hereby finds and determines pursuant to Article 40 of the Suffolk County Administrative code, that once the county acquires an interest in real property through a tax deed the County must decide whether to retain the real property for a County purpose or otherwise dispose of the property.

This Legislature further finds that in order to encourage the development of affordable housing that the County should notify a local municipality that the County has acquired an interest in real property within its jurisdiction and intends to dispose of the property, and afford the municipality the ability to request the property be transferred to it pursuant to New York General Municipal Law § 72-h for affordable housing purposes.

This Legislature further finds that in order to ensure that the any parcel transferred pursuant to the County's New York General Municipal Law § 72-h transfer program is properly developed for affordable housing programs, there should be an approved list of affordable housing developers that municipalities may partner with to build an affordable housing program on a parcel acquired New York General Municipal Law § 72-h transfer program.

Therefore it is the purpose of this local law to require that local municipalities be provided notice that the County has acquired an interest in real property in its jurisdiction and plans on disposing of the property prior to the parcel being placed on a public auction list and that a municipalities should be given an opportunity to request the property be transferred to it for affordable housing pursuant to the County's New York General Municipal Law § 72-h transfer program.

In addition, the purpose of local law is to require the Suffolk County Department of Economic Development and Workforce Housing to develop a list of approved affordable housing developers, subject to the approval of the legislature, that are approved to partner with local municipalities in developing affordable housing projects on parcels acquired by a municipality through the County's New York General Municipal Law § 72-h transfer program.

Section 2. Amendments.

Article XL of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

§ A40-4. Disposition of property acquired through Suffolk County Tax Act.

* * * *

D. Interest in real property acquired by tax deed.

(1) Upon the County acquiring an interest in real property by tax deed, the Commissioner shall advise the County Executive, the Commissioner of Public Works, the Commissioner of Parks, Recreation and Conservation, the Commissioner of Health Services, the Director of the Division of Planning and Environment, the Clerk of the County Legislature, and such others as by management order of the County Executive or resolution of the County Legislature shall be designated, thereof. Those so advised shall, within four weeks, report in writing to the Commissioner whether they wish consideration to be given to holding such interest for a County purpose, together with the reasons for such proposed retention. Parcels acquired by tax deed that are located within the Mastic-Shirley conservation area, with the exception of Suffolk County Tax Map Number 0200-984.60-10.00-002.000, as defined in the Comprehensive Master List, shall, in all cases, be retained by the County for open space preservation purposes.

(2) Once a determination has been made that an interest in real property shall not be retained for a County purpose, and the period for which homeowners are allowed to submit repayment of taxes, penalties, interest, recording fees and any other charges due to the County of Suffolk has expired, the Commissioner shall notify the municipality in which the parcel is located in writing that the County has acquired an interest in the real property and that the property has been

designated by the County for disposition as follows:

- (a) The notice shall be sent as soon as a practical following the determination that the property will not be retained for a County purpose, and at least 60 days before the property is placed on a list for public auction;
- (b) If the municipality has a Community Development Agency (“CDA”), the notice shall also be sent to the municipality’s CDA;
- (c) The municipality in which the parcel is located, or its CDA, shall have 45 days from the date of the notice to notify the Commissioner that it is interested in acquiring the parcel for affordable housing purposes through a New York General Municipal Law § 72-h transfer;
- (d) Once a municipality requests that an interest in real property be transferred for affordable housing purposes through a New York General Municipal Law § 72-h transfer the property shall not be put on a public auction list unless and until the municipality withdraws the request or a determination is made that the transfer would not be in the best interests of the County’s affordable housing program;
- (e) The Commissioner shall notify the Clerk of the Legislature, in writing, of any determination to deny a municipality’s request to transfer an interest in real property for affordable housing purposes through a New York General Municipal Law § 72-h transfer, within 10 days of notifying the municipality that the request has been denied. For the purposes of this subsection, notification by electronic mail shall constitute a writing.

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II. Article XXXVI of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

§ A36-2 Suffolk County housing opportunities programs.

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B. New York State General Municipal Law § 72-h Transfer Program.

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(6) Establishment of list of approved affordable housing developers.

- (a) the Department shall establish a list of Affordable Housing Developers that municipalities are authorized to partner with in the development of affordable housing projects on parcels

transferred to a municipality through the §72- H transfer program. In developing the list of approved Affordable Housing Developers, the following criteria shall be considered:

- (i) the experience of the Affordable Housing Developer and its officers in developing affordable housing projects;
 - (ii) whether the Affordable Housing Developer has the financial capability to develop the proposed affordable housing project
 - (iii) whether any project developed by the Affordable Housing Developer has been cited for building code violations or violated the affordability conditions imposed on one its projects;
 - (iv) with regard to not-for-profit Affordable Housing Developers the administrative costs, including the salaries of its officers compared to the number of affordable housing units created on a year by ear basis for the last five years, and;
 - (v) any other criteria the Department determines is relevant in deciding whether a developer should or should be considered an approved Affordable Housing Developer.
- (b) The list of approved affordable housing developers shall be presented to legislature prior to April 1 in the year following the adoption of this section, and then prior to April 1 every third year following the adoption of the initial list. No list shall be effective until approved by a resolution by the full legislature. Any approved list shall remain in effect until a new list is approved by the Legislature.

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Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision,

section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26), (27) and (33) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW in that the action constitutes routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language

___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: