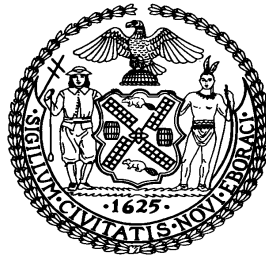


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THE COUNCIL

**BRIEFING PAPER OF THE
INFRASTRUCTURE DIVISION**
Robert Newman, Legislative Director
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COMMITTEE ON ECONOMIC DEVELOPMENT

Hon. Karen Koslowitz, Chair

May 1, 2013

Prop. Int. 438-A:

By: Council Members Vann, Comrie, Fidler, Foster, James, Koppell, Koslowitz, Lander, Mark-Viverito, Recchia, Reyna, Williams, Rodriguez, Van Bramer, Barron, Jackson, Nelson, Palma and Levin.

Title:

To amend the New York city charter and the administrative code of the city of New York, in relation to community impact reports for city-subsidized economic development projects.

Charter: Amends paragraph a of subdivision 1 of section 1301 of the New York city charter.

Administrative Code: Amends title 22 of the administrative code of the city of New York by adding a new chapter 8.

Res. 1257: By: Council Members Foster, Chin, Eugene, Jackson, James, Koppell, Palma, Rose and Rodriguez (by request of the Bronx Borough President)

Title: Resolution calling for further improvement in the consideration of health impacts in the Administration’s decision-making relating to real estate development projects, plans, and policies, specifically by utilizing health impact assessments and by increased collaboration between the Department of City Planning, the Economic Development Corporation, and the Department of Health and Mental Hygiene.

INTRODUCTION

The Committee on Economic Development, chaired by Council Member Karen Koslowitz, will hold a hearing to consider Prop. Int. No. 438-A, a Local Law to amend the New York City Charter and the Administrative Code of the City of New York, in relation to community impact reports for City-subsidized economic development projects, and Resolution 1257, calling for the City’s administration to improve its consideration of health impacts by using health impact assessments when evaluating plans and policies related to real estate developments projects. Parties invited to provide testimony at the hearing include the Deputy Mayor for Economic Development, representatives from the New York City Department of Small Business Services (SBS), the New York City Economic Development Corporation (EDC), the Partnership for New York City, Good Jobs New York and other interested parties.

BACKGROUND

New York City, populated by more than eight million residents within a diverse spectrum of incomes and neighborhood prosperity pursues an economic development policy rooted in the provision of City resources, primarily tax benefits and city-owned land, to private companies.

The City's discretionary tax benefits for economic development efforts are administered by the New York City Economic Development Corporation (EDC). EDC is a not-for-profit corporation, formed to serve as the City's primary economic development vehicle, to plan, facilitate and administer economic development activities and projects on behalf of the City.¹ EDC operates pursuant to a contract with the City's Department of Small Business Services (SBS) pursuant to which EDC is empowered to sell or lease city-owned land² and use state authorized tax benefits to incentivize private businesses to engage in economic development projects.³ Tax benefits utilized by EDC are authorized by the New York City Industrial Development Agency (NYCIDA) (a state agency administered and operated by EDC)⁴ and include tax exempt bond financing, sales tax waivers, mortgage recording tax waivers, real property taxes and Payments-In-Lieu-Of-Taxes.

Over the last two decades, EDC has initiated more than 600 economic development projects conferring tax benefits⁵ and interests in city-owned land.⁶ In fiscal year 2012, as an incentive to relocate, remain, expand or initiate business operations, New York City provided private businesses more than \$66 million in tax benefits, and conveyed more than \$28 million in city-owned land⁷. The intended benefit of these efforts and projects is the prevention of

¹ New York City Economic Development Corporation, <http://www.nycedc.com>

² This land is often sold to EDC by the City pursuant to Section 384 of the New York City Charter.

³ Master Contract, City of New York

⁴ NYCIDA is a state agency created by Article 18-A of the General Municipal Law. EDC contracts with NYCIDA to develop and facilitate economic development projects for which the NYCIDA's board of directors approves tax benefits.

⁵ The tax benefits conferred by EDC are those authorized by the New York City Industrial Development Authority (NYCIDA), a state entity authorized to grant tax benefits, and include tax-exempt bonds, sales tax waivers, mortgage reporting tax waivers, real property tax exemptions and Payments-In-Lieu-Of-Taxes (PILOTS) – See General Municipal Law, Sections 850-888 and Section 917*2.

⁶ Economic Development Corporation, website, <http://www.nyc.gov/edc>.

⁷ New York City Economic Development Corporation, Annual Investment Projects Report Pursuant to Local Law 62 – FY 2012, January 31, 2013, http://www.nycedc.com/sites/default/files/filemanager/About_NYCEDC/Financial_and_Public_Documents/Landing_page/LL62/LL62_Volume__I_FY2012_horiz.pdf.

unemployment and economic deterioration within the City by creating and retaining jobs and catalyzing business growth.⁸

Many of EDC's projects involved the physical transformation of neighborhoods, the building of new neighborhoods, the development of mixed-use space and neighborhood amenities.⁹ To accomplish the objective of some projects, existing residents and businesses were permanently dislocated due to the demolition, reconstruction or change in use of neighborhood property. Smaller projects in neighborhoods often introduced new structures, operations or customers which altered a neighborhood's long-standing character or familiarity.

Public review and participation in the disposition of city-owned land is subject to review by two processes: the Uniform Land Use Review Process, known as ULURP¹⁰ and the City Environmental Quality Review process, known as CEQR.¹¹ The ULURP process is a public process by which public bodies, including community boards, offices of borough presidents, the city planning commission and the New York City Council review the proposed use and development of city-owned land prior to any disposition or changes affecting the land. This process has established time frames wherein each public body must review the proposed action, hold a public hearing on the matter and issue a decision whether to approve the proposed action.¹² CEQR is the City's implementation of New York State's environmental review process where discretionary actions relating to aspects of the city's environment, including the use of land and the socio-economic impacts of such use, are reviewed by City agencies to identify the effects the proposed discretionary action may have on the City's

⁸ General Municipal Law, Section 852 – where a stated purpose of industrial development agencies, which confer the referenced tax benefits, is “preventing unemployment and economic deterioration”

⁹ New York City Economic Development Corporation, Major Economic Development Initiatives, <http://www.nyc.gov/html/edc/>.

¹⁰ New York City Charter, Section 197-c, subsection a; See also: Department of City Planning, <http://www.nyc.gov/html/dcp/html/luproc/ulpro.shtml#actions>

¹¹ Mayor's Office of Environmental Coordination, http://www.nyc.gov/html/oec/html/ceqr/faq_general.shtml

¹² Department of City Planning, <http://www.nyc.gov/html/dcp/html/luproc/ulpro.shtml#actions>

environment.¹³ The Mayor's Office of Environmental Coordination, which manages CEQR operations, produces a CEQR Technical Manual, utilized by city agencies, project sponsors, and the public in conducting environmental reviews. The manual summarizes CEQR procedures and provides guidance on the substantive areas of analysis assessed in CEQR environmental reviews. Chapter 5 of the manual addresses socioeconomic impact analysis and chapter 20 of the manual addresses public health impact analysis. CEQR reviews are internal to City agencies and unless an internal agency determination requires a formal environmental review, the public has no legally required review or participation in the CEQR review process.¹⁴

Public review and participation prior to the granting of discretionary tax benefits for City economic development projects is limited by state law to a single public hearing prior to a final authorization of benefits.¹⁵ However, subsequent to the granting of tax benefits, the public is provided data regarding the impact on employment and the City's economy provided by the project. EDC, pursuant to its contract with the City and the City Charter, annually publishes a report with quantitative data regarding the number of jobs created or retained, the amount of tax benefits conferred and amount of tax revenue received.¹⁶

PROPOSED INTRODUCTION 438-A

Proposed Introduction 438-A requires the Department of Small Business Services to produce a Community Impact Report (CIR) thirty days prior to the approval of an economic development project where discretionary tax benefits have been conferred by EDC or city-owned

¹³ Mayor's Office of Environmental Coordination, http://www.nyc.gov/html/oec/html/ceqr/faq_general.shtml

¹⁴ Mayor's Office of Environmental Coordination, http://www.nyc.gov/html/oec/html/ceqr/faq_general.shtml

¹⁵ General Municipal Law Section 859(a), requires that IDA's provide a public hearing prior to a board of director's authorization to confer tax benefits for a project. There must be no less than 10 days notice prior to the public hearing where the public may review and comment on a proposed project.

¹⁶ New York City Charter, Section 1301 (1)(b)(2)(i)-(xii).

land has been sold or leased for purposes of economic development. The report must be published on the website of EDC or SBS.

The CIR will create a new chapter, 8, within title 22 of the administrative code of the city of New York, and amend paragraph a of subdivision 1 of section 1301 of the New York city charter.

Bill Section 1 adds chapter 8 to Title 22 of the Administrative Code of the City of New York. Chapter 8 contains two new sections, 22-801 and 22-802.

Section 22-801 provides definitions of the operative terms of the legislation, including “department”, “economic development benefit”, “economic development entity”, “economic development project”, “financial assistance” and “financial assistance project”.

Section 22-802 describes the functions of the CIR, the circumstances requiring the production of a CIR, the contents of the CIR and the time by which the CIR must be submitted to the City Council and made available to the public online.

Section 22-802(a) describes the general information regarding an economic development project the CIR must contain, including a description of the project, its location, its initial owner, operator or manager, and other information.

Section 22-802(b) describes the information to be provided in the CIR if an economic development project is located in an area of the city that classified according to state law as a “highly distressed area”. This information would reflect whether the project is expected to have an impact ameliorating unemployment or economic deterioration of the highly distressed area. Such information would include alleviating unemployment, spurring investments, increasing the wages of other businesses in the distressed area, providing opportunities for training and skills and supporting entrepreneurial efforts.

Section 22-802(c) requires declaring the current use of land at a prospective location.

Section 22-802(d) requires data concerning the number of residential units and rents that may be created by a project; the number and demographic profile of any residents that may be displaced by the proposed project; the number of businesses that may be displaced by the project and certain employee, business type classification and size information; jobs that may be directly created by the project; type of businesses that may be providing jobs within the project; on the number of employees that may be hired as a result of the project and their wages; a statement as to whether local job recruitment programs will be utilized by the project; and the number of employees hired on a project that receive health benefits.

Section 22-802(d)*2 requires that the CIR be submitted to the Council 30 days prior to approval of the project. The reports shall also be made available on the City's website.

Paragraph 2 of the bill amends paragraph a of subdivision of subdivision 1 of section 1301 of the New York City Charter to add "examining the impact of economic development projects on communities where a project is proposed to the Commissioner of Small Business Services duties.

Paragraph 3 of the bill states that this law shall take effect 120 days after its enactment.

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Proposed Int. No. 438-A

By Council Members Vann, Comrie, Fidler, Foster, James, Koppell, Koslowitz, Lander, Mark-Viverito, Recchia, Reyna, Williams, Rodriguez, Van Bramer, Barron, Jackson, Nelson, Palma and Levin

A Local Law

To amend the New York city charter and the administrative code of the city of New York, in relation to community impact reports for city-subsidized economic development projects.

Be it enacted by the Council as follows:

Section 1. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

Chapter 8

Community Impact Reports

§22-801. Definitions

§22-802. Community Impact Reports

§22-801. Definitions. a. For the purposes of this chapter, the following terms shall have the following meanings:

1. “Department” shall mean the department of business services.
2. “Economic development benefit” shall mean the sale or lease of city-owned property to a person or entity for the purpose of job creation, retention, growth or other economic development project, or the provision or administration of financial assistance to a person or entity for the improvement or development of real property, job creation, retention, growth or other economic development project which is provided or administered by a city agency or an economic development entity.. Economic development benefits shall not include the sale or lease of city-owned property or the provision of a benefit in connection with contracts or other agreements for the provision of social services or for the creation of

affordable housing units where such housing units are not created in connection with the creation of market rate housing units.

3. “Economic development entity” shall mean a local development corporation or not-for-profit corporation which, pursuant to a contract with the city, is providing or administering economic development benefits on behalf of and for the benefit of the city.

4. “Economic development project” shall mean a project undertaken by a person or entity which receives an economic development benefit for such project.

5. “Financial assistance” shall mean the provision of monetary payments, loans or grants; bond financing; tax abatements or exemptions; energy savings or any other financial incentive including, but not limited to, abatements or exemptions from real property, mortgage recording, sales and uses taxes, or the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from the payment of such taxes which is valued at one hundred fifty thousand dollars or more but shall not include any benefit or assistance in connection with contracts or other agreements for the provision of social services or for the creation of affordable housing units where such housing units are not created in connection with the creation of market rate housing units.

§22-802. Community Impact Reports. For each economic development project, the department shall prepare or cause to be prepared a community impact report which shall describe and assess certain economic and social data related to the proposed economic development project and the community in which it will be located along with the following:

a. a general, functional description of the proposed project; its prospective location; its initial owner, operator or manager; existing number of employees; whether the project is a new

or continuing endeavor; a full description of the funding source benefit or program name, dollar amount or equivalent along with the term of all economic development benefits being contemplated including a list of as-of-right business incentive program benefits provided by the city;

b. information on whether the economic development project would be located in a highly distressed area as defined under section 854(18) of the general municipal law with a listing of such qualifying characteristics. Where a project would be located in a highly distressed area, the community impact report should address the impact the proposed project will have in (i) alleviating unemployment; (ii) spurring private or public investment in employment, housing or educational opportunities for residents (iii) increasing wages or other employment compensation, such as health benefits, of other businesses in the distressed area; (iv) providing opportunities for training and skills development and improving employment opportunities for entry-level or low-skill workers and (v) facilitating and supporting local entrepreneurial efforts.

c. Where a business will be created or moved to a prospective location in furtherance of the economic development project, the current use of the prospective location shall be identified;

d. The community impact report shall also include: (i) the estimated number of residential units to be directly created or renovated as a result of such project, proposed rents for such units, how such rents compare to current rents in the community district or districts within which such project will be located and the estimated increase in rents within such community district or districts resulting from such project;

(ii) the estimated number of residents who will be displaced as a direct result of the project and as to these residents, a demographic profile to include, but not limited to the racial, ethnic and gender composition of these residents, the estimated number of residents over sixty-

five years of age and under 18 years of age; the average individual and household income; the number of residents receiving subsidized housing assistance from vouchers, grants or other program; the number of any rent regulated units in an existing building at risk of elimination; and such other information determined by the department to be appropriate;

(iii) the estimated number of businesses that will be displaced as a direct result of the project; the estimated number of full-time employees and part-time employees to be displaced; the business type classification as commercial, industrial or retail and percentage representation, average gross floor area and the final actual assessed total value of the business properties to be displaced.

(iv) the estimated number of permanent and seasonal full-time jobs to be directly created by such project, the number of permanent full-time jobs to be indirectly created by such project and how each such estimate was derived;

(v) the number of jobs directly created by such project, aggregated by business sector including, but not limited to, construction, retail, professional services, financial services, tourism and hospitality, information and technology and building services;

(vi) the percentage of employees in each category set forth in paragraphs iv and v of this subdivision, respectively, who it is estimated will earn up to thirty-five thousand dollars per year, the percentage of employees who it is estimated will earn more than thirty-five thousand dollars per year and up to fifty thousand dollars per year and the percentage of employees who it is estimated will earn more than fifty thousand dollars per year and for those employees who are not salaried but are paid based upon an hourly wage, the percentage of employees in each such category, respectively, who it is estimated will be paid an hourly wage between the minimum wage and ten dollars an hour and above ten dollars and up to fifteen dollars an hour;

(vii) information on whether the project will utilize local job recruitment programs and the number of jobs which may be filled by such programs;

(viii) the number of persons in each category set forth in paragraphs iv and v of this subdivision, respectively, who it is estimated will receive employer provided health benefits.

d. A community impact report shall be submitted to the council at least thirty days prior to the approval by the city or the economic development entity of the proposed economic development benefit and related project. Each report shall also be made available on the website of the economic development entity or on the website of the city of New York.

§2. Paragraph a of subdivision 1 of section 1301 of the New York city charter is amended to read as follows:

a. to establish business, industrial and commercial policies, programs and projects which affect the business, industrial, commercial or economic well-being, development, growth and expansion of the economic life of the city; and to examine the impact on communities for which an economic development project is proposed.;

§3. This local law shall take effect one hundred twenty days from its enactment.

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Res. No. 1257

Resolution calling for further improvement in the consideration of health impacts in the Administration's decision-making relating to real estate development projects, plans, and policies, specifically by utilizing health impact assessments and by increased collaboration between the Department of City Planning, the Economic Development Corporation, and the Department of Health and Mental Hygiene.

By Council Members Foster, Chin, Eugene, Jackson, James, Koppell, Palma, Rose and Rodriguez (by request of the Bronx Borough President)

Whereas, Development projects often have diverse, wide-ranging impacts on air quality, water quality, noise, safety, social networks, nutrition, parks, public services, transportation, social equity, and education; and

Whereas, These impacts, in turn, affect the physical, economic, and emotional health of individuals, families, and communities; and

Whereas, Health impact assessments are a tool that can be used to systematically analyze potential health impacts of development projects on the health of a population, the distribution of these effects, and how to effectively manage these effects; and

Whereas, The use of health impact assessments can ensure that health is regularly taken into account in development-related decision-making; and

Whereas, Government agencies such as the San Francisco Department of Public Health, Wisconsin Department of Health Services, and Philadelphia Department of Public Health; and outside groups, such as Health Impact Partners, have pioneered the use of health impact assessments in planning decisions such as development projects; and

Whereas, The New York City government under Mayor Bloomberg has demonstrated leadership in examining how decisions in many different areas can impact health by issuing the

Active Design Guidelines, and by fostering collaboration between the Department of City Planning, the Department of Health and Mental Hygiene, the Department of Parks and Recreation, the Department of Design and Construction, the Department of Buildings, and the Department of Transportation; now, therefore, be it

Resolved, That the Council of the City of New York calls for further improvement in the consideration of health impacts in the Administration's decision-making relating to real estate development projects, plans, and policies, specifically by utilizing health impact assessments and by increased collaboration between the Department of City Planning, the Economic Development Corporation, and the Department of Health and Mental Hygiene.

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