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Int. No. 2363

By Council Member Kallos

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to departmental statements of needs and notice to the city required when real property is available for purchase

Be it enacted by the Council as follows:

Section 1. Subdivision e of section 204 of the New York city charter is amended to read as follows:

e. Preparation of the statement of needs.

(1) Annually on such date as the mayor shall direct, each agency shall submit to the mayor and the council a statement containing all the information required to be included in the statement of needs for the ensuing two fiscal years pursuant to subdivisions a, b and c of this section that relates to the plans, jurisdiction and responsibility of such agency. Such statements shall be known as the departmental statements of need for

city facilities. In preparing such departmental statements of needs, each agency shall review and consider the district needs statements submitted by community boards pursuant to paragraph ten of subdivision d of section twenty eight hundred and the statements of budget priorities submitted by the community boards pursuant to section two hundred thirty.

§ 2. Title 4 of the administrative code of the city of New York is amended by adding a new chapter 3 to read as follows:

CHAPTER 3

REAL PROPERTY AVAILABLE FOR PURCHASE BY THE CITY

§ 4-301 Definitions. For the purposes of this section, the following terms have the following meanings:

Bona fide offer to purchase. The term “bona fide offer to purchase” means an offer to purchase real property, which offer is made in writing, in good faith and without fraud.

Commissioner. The term “commissioner” means the commissioner of citywide administrative services or the head of a successor agency charged with administration of this chapter.

Department. The term “department” means the department of citywide administrative services or a successor agency charged with administration of this chapter.

Owner. The term “owner” means any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of, real property that is offered for or subject to sale.

Real property professional. The term “real property professional” means any realtor, broker, listing agent or service who is acting on behalf of an owner and who is charged with listing real property available for purchase or facilitating the purchase of real property.

§ 4-302 Properties for sale; notice required. a. An owner or real property professional shall provide notice to the department before taking any action that will result in the sale of vacant real property with a lot size of 20,000 square feet or more. For vacant real property with a lot size less than 20,000 square feet, such notice may be required as determined by rule of the department.

b. The owner or real property professional shall provide such notice of sale no less than 30 days before taking such action. The notice may be provided fewer than 30 days before the owner takes such action where the owner or real property professional shows good cause for delay, including but not limited to the owner's death or financial hardship, or if the sale is in response to a previously unsolicited offer.

c. A notice of sale shall include the following information:

1. The name and address of each owner of the real property;
2. All addresses and names of the real property;
3. The action that will result in a sale, including receipt of any bona fide offer to purchase a previously unlisted property;
4. The date on which such action is anticipated to take place;
5. The provision of law, rule or regulation pursuant to which such action is authorized, if any;
6. The total size and type of real property subject to a sale;
7. The amount of any outstanding mortgage as of the date of the notice;
8. The asking price for the real property; and
9. Such other information as the department may require.

d. An owner or real property professional may withdraw a notice of sale, subject to the terms of any accepted offer to purchase or executed purchase and sale agreement, and to applicable statutory and common law remedies. To withdraw a notice of sale, the owner or real property professional shall give notice of withdrawal to the department in a manner specified by the department. Nothing in this subdivision shall be construed as exempting an owner or real property professional who has withdrawn a notice of sale from complying with subdivisions a, b and c of this section and with all other applicable requirements of this chapter before taking any action that will result in the sale of real property.

e. Notwithstanding any provision of this section to the contrary:

1. A person shall be deemed to have complied with the requirement to provide notice of sale or notice of

withdrawal under this section if such person has complied with a substantially similar notice requirement imposed pursuant to a superseding statute or program; and

2. If the notice of sale or notice of withdrawal is required by this section to include more information than is required by any applicable superseding city, state or federal statute or program, the additional information required by this section shall be provided within the time period established by the superseding statute or program.

§ 4-303 Agency response required. Within 30 days of the posting of a notice of sale of real property pursuant to this chapter, each agency shall respond to each such notice by either (i) expressing an interest in purchasing such real property or (ii) by disclaiming any such interest. An expression of interest includes, but is not limited to, outreach to the owner or real property professional to make inquiries about the available real property or submitting an offer for such property.

§ 4-304 Prior notification. Notwithstanding any other provision of this chapter, where an owner or real property professional listed real property for sale before the effective date of this chapter and such listing was properly posted under any other applicable provision of law, such owner or real property professional shall notify the city as required by section 4-302. Such notice is not required if the owner has entered into a contract for the sale of such property or the sale period has closed before the effective date of this chapter.

§ 4-305 Manner of notice, generally. a. Wherever this chapter requires provision of notice, such notice shall be made by posting on a website designated by the commissioner.

b. The commissioner shall designate a website through which an owner or real property professional shall provide notice to the city under this chapter. The commissioner shall update the website at least daily and shall include disclaimers to the effect that (i) where a notice is provided on the website, such notice usually will not be provided in any other manner and (ii) it is the responsibility of any person interested in receiving any notice under this chapter to monitor the website for such notices.

c. Where applicable, the department shall include with a notice posted on such website the following

information:

1. An affirmative statement that a copy of such notice was sent to every agency automatically when it was posted to such website;

2. The response of each agency to such notice;

3. Whether any agency is in the process of acquiring the real property listed and, if so, which agency;

4. Whether an agency disclaimed any interest in purchasing the real property and the reason for such lack of interest, including budget constraints, space limitations or location;

5. The reason the owner refused an agreement with an agency that expressed interest, if any;

6. Whether eminent domain was used to acquire the real property; and

7. Whether the real property was acquired through successful completion of the uniform land use review procedure.

d. The department shall post an update of an agency's expression of interest upon referral of an application that was submitted pursuant to the uniform land use review procedure for community board review. Any notice posted upon the website shall remain on such website until six months after sale of the real property has concluded or been canceled, or six months after an eminent domain action has concluded or been canceled. Such website shall provide every agency with alerts for every notice that is posted on the website. Such website shall allow public users to sign up for alerts for available properties filtered by zip code, council district and community district.

e. Provision of notice as required by this chapter shall be deemed complete upon posting to the website designated by the commissioner pursuant to subdivision b of this section.

§ 4-306 Penalties. a. An owner shall be liable for a civil penalty of \$30,000 where:

1. Such owner willfully violates any provision of this chapter; or

2. Such owner directs a real property professional to take or refrain from taking any action that results in a violation of any provision of this chapter.

b. A real property professional who willfully violates any provision of this chapter shall be liable for a civil penalty of \$30,000, except when such violation is a result of action or inaction at the express direction of the owner.

§ 4-307 Exclusions; construction. a. The provisions of this chapter do not apply:

1. To any agreement regarding the transfer of real property that was in effect on the effective date of this chapter, except that any renewal, modification or amendment of such agreement occurring on or after the effective date of this chapter is subject to the provisions of this chapter;

2. To any refinancing arrangement where an owner or purchaser refinances real property in order to maintain ownership of such property;

3. To any transfer of property initiated by (i) a government entity implementing its powers of eminent domain, (ii) a judicial proceeding, including a judicially supervised sale, (iii) a bankruptcy proceeding, or (iv) other operation of law; or

4. To any proposed sale for which (i) a listing, as described in section 4-305, was properly posted in accordance with any other applicable provision of law that requires provision of a notice of sale to the department, and (ii) 45 or fewer days remain before the expiration of the notice of sale period under such other applicable provision of law.

b. Nothing in this chapter shall be construed as requiring an owner to give preference to any particular offer to purchase real property, or to accept any such offer.

§ 4-308 Power of acquisition by ULURP or eminent domain preserved. Nothing in this chapter shall be construed as curtailing the city's authority to acquire real property in accordance with the uniform land use review procedure or by exercise of the power of eminent domain, subject to all applicable laws governing the exercise of such power.

§ 3. This local law takes effect 120 days after it becomes law.

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