Resolution No. 368   June 13, 2023

Establishing A Policy Prohibiting Dual Agency In Real Estate Transactions In Which The County Is A Purchaser, Seller, Lessor Or Lessee

Referred to: The Ways and Means Committee (Chairman Gavaris and Legislators Cahill, Criswell, Roberts, and Ronk)

Legislator Joe Maloney offers the following:

WHEREAS, New York State law defines dual agency as "an agent who is acting as buyer's agent and a seller's agent or a tenant's agent and a landlord's agent in the same transaction", (NY Consolidated Laws Chapter 50, Article 12-A, Section 443); and

WHEREAS, a growing number of large real estate brokerages in Ulster County has resulted in instances of dual agency in real estate transactions; and

WHEREAS, dual agency has been banned in many States within the United States; and

WHEREAS, New York state law requires real estate licensees obtain written consent from the potential buyers, sellers, tenants, landlords, if such agent represents both parties in the transaction, (NY Consolidated Laws Chapter 50, Article 12-A, Section 443); and

WHEREAS, in February, 2020, New York State Department of State issued a memorandum cautioning against dual agency in real estate transactions, finding that an agent's fiduciary duties to a given party in a real estate transaction need never be compromised (See NYS Department of State Memorandum LI12, February, 2020); and

WHEREAS, pursuant to Charter Section C-11, the Ulster County Legislature is the policy determining body and as such, shall exercise all powers and duties inferred upon it by law; and

WHEREAS, the Legislature hereby finds it is not in the best interest of the people of Ulster County for the County to consent to dual agency in transactions involving the County, as it gives rise to inherent conflicts in interest, divided loyalty and a potential breach of fiduciary duty; now, therefore be it

RESOLVED, effective immediately, Ulster County shall not consent to dual agency in any real estate transaction in which the County is either the buyer, seller, lessor or lessee,

and move its adoption.

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ADOPTED BY THE FOLLOWING VOTE:

AYES: 22   NOES: 0
(Legislator Lopez left at 9:01 PM)

Postponed in Committee: Ways and Means for one week on June 6, 2023

Passed Committee: Ways and Means on June 13, 2023

FINANCIAL IMPACT:
NONE

STATE OF NEW YORK
                        ss:
COUNTY OF ULSTER

    I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 13th Day of June in the year Two Thousand Twenty-Three, and said resolution shall remain on file in the office of said clerk.

    IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 15th Day of June in the year Two Thousand Twenty-Three.

[s] Victoria A Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

Submitted to the County Executive this
15th Day of June 2023.

Approved by the County Executive this
22nd Day of June 2023.

[s] Victoria A Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

[s] Jen Metzger
Jen Metzger, County Executive