

Requesting New York State Legislature And The Governor To Amend Real Property Law Section 339-y And Vote Yes On New York State Assembly Bill No. A01574 And New York State Senate Bill No. S01058

The Efficiency, Reform and Intergovernmental Affairs Committee (Chairman Bischoff and Legislators Bartels, Liepmann, Rodriguez, Shapiro, Busick and Cummings) and Legislators Aiello, Alfonso, Donaldson, Every, Fabiano, Felicello, Gerentine, Harris, McAfee, Noonan and Roberti offer the following:

WHEREAS, Real Property Law Section 339-y has been interpreted by courts to limit an assessor's method of establishing a condominium assessment to the income approach, resulting in the assessment for each unit significantly under market value, sometimes as much as 50% or more, and

WHEREAS, further abuse of Section 339-y now includes attempts by developers to take large tracts of land, construct large single-family houses on one or two acres and instead of simply subdividing the property, establish a condominium with two classes of common areas, a limited common area (consisting of all the parcels surrounding each residence), which is for the exclusive use of the owner and occupant of the "condominium unit", and one general common area consisting only of the roadways within the development, and

WHEREAS, by structuring ownership of the property in the manner just described, Section 339-y limits the assessing unit to setting assessments on all the units as if the property were a single parcel, resulting in a steep reduction in what the assessment would otherwise be, and

WHEREAS, there is currently before the New York State Legislature and the Governor of the State of New York, legislation proposed by the Senate and the Assembly, specifically Bill No. A01574 and Bill No. S01058, which would amend Section 339-y of Real Property Law of the State of New York and Section 581 of Real Property Tax Law of the State of New York which would provide equal real property assessment treatment for all types of residential housing by removing the valuation and assessment limitations on condominium and cooperative units converted or constructed after January 1, 2008 in all municipal corporations, other than New York City and Nassau County, and

WHEREAS, the proposed State legislation does not include any provisions for equal real property assessment treatment for condominium and cooperative units converted or constructed prior to January 1, 2008, and

WHEREAS, the Ulster County Legislature supports the proposed State legislation but believes that the legislation referenced herein and proposed by the

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State should contain provisions that would provide equity in real property assessments for all real property owners, and

WHEREAS, the Ulster County Legislature understands the difficulties that would result in legislation that would require the removal of valuation and assessment limitations on all condominium and cooperative units that have been converted and constructed prior to January 1, 2008, and

WHEREAS, the Ulster County Legislature believes that equity would be achieved in regards to these assessments if the legislation proposed by the State were to be amended to include a provision that would further require the removal of valuation and assessment limitations on all condominium and cooperative units converted or constructed prior to January 1, 2008 upon the sale and/or conveyance and/or change of ownership of such a unit thereby eventually providing equity in all real property assessments for all real property owners.

RESOLVED, that the Ulster County Legislature hereby calls upon the New York State Legislature and Governor of the State of New York to amend Real Property Tax Law Section 339-y so as to provide equal treatment for all types of residential housing and to prevent the continuing abuses of Section 339-y as described above, and

FURTHER RESOLVED, that the Ulster County Legislature supports the intent of Assembly Bill No. A01574 and Senate Bill No. S01058 but would like to see further provisions that would provide for eventual equity for all real property owners, and

FURTHER RESOLVED, that the Ulster County Legislature hereby calls upon the New York State Legislature to amend the legislation proposed herein to include a provision that would further require the removal of valuation and assessment limitations on all condominium units converted prior to January 1, 2008 upon the sale and/or conveyance and/or change of ownership of such a unit, and

FURTHER RESOLVED, that the Clerk of the Ulster County Legislature shall forward copies of this resolution to Governor Eliot Spitzer, New York State Comptroller's Office, Senate Majority Leader Joseph Bruno, Senate Minority Leader Malcolm Smith, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader James N. Tedisco, New York State Senators

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John J. Bonacic and William J. Larkin, Jr., New York State Assemblymen Kevin A. Cahill, Clifford W. Crouch, Peter Lopez and Thomas Kirwan, and the New York State Association of Counties,

and moves its adoption.

ADOPTED AS AMENDED BY THE FOLLOWING VOTE:

AYES: 30 NOES: 1
(NOES: Legislator Sheeley)
(Absent: Legislators Every and Felicello)

Legislator Bartels motioned, seconded by Legislator R. A. Parete, to amend the resolution as follows: deleting the following "RESOLVED": "*RESOLVED, that the Ulster County Legislature calls upon the New York State Legislature and the Governor to repeal Real Property Law Section 339-y and vote yes on Bills A01574 and S01058 so as to provide equal treatment for all types of residential housing and to prevent the continuing abuses of Section 339-y as described above, and;* adding a fourth, fifth, sixth, seventh and eighth "WHEREAS" as indicated in the resolution, adding a "RESOLVED" as indicated in the resolution and adding the first and second "FURTHER RESOLVED" as indicated in the resolution.

MOTION ADOPTED BY THE FOLLOWING VOTE:

AYES: 31 NOES: 0
(Absent: Legislators Every and Felicello)

FINANCIAL IMPACT:
NONE

0410