



ENVIRONMENTAL
ADVOCATES OF NEW YORK

OPPOSES



Key to Legislative Ratings:



Major Detriment



Substantial Detriment



Detrimental

A.3353 (BRADLEY, ET AL.) **S.1988 (VALESKY, THOMPSON)**

Summary

This bill vests the municipal zoning, planning and environmental regulations that are in place 180 days (six months) after a complete application to develop land is filed. The regulations would be vested for six years as long as the applicant is proceeding with the proposed development. Exceptions would apply when federal or state law changes, or if the municipality can show by “clear and convincing evidence” that due to newly discovered information or changed circumstances that the development “is likely” to harm the public or the environment, and that such harm will not be prevented by existing laws, regulations or ordinances.

Explanation

Vesting is a legal doctrine that secures current rights for future enjoyment. In this case, the bill takes environmental and zoning regulations in place six months after a land development application is filed and vests them for six years—regardless of whether a municipality develops more protective regulations in the interim. In doing so, this bill would undercut municipal planning and hamstring a municipality’s ability to address environmentally damaging growth or to consider the cumulative impacts of proposed developments.

Vesting land development rights only six months after a permit application is filed may not give municipalities enough time or determines a project’s consistency with community plans. Zoning changes and planning processes take time, and depending on a community’s financial and personnel resources, these processes can take longer than six months.

If enacted, this proposal would cut the public out of any review processes tied to potential development by allowing rights to be vested based on the date that an application is filed. Unless a member of the public is previously aware of a project, the clock is already ticking until an applicant’s rights are vested. Under this proposal, by the time an application goes through any public vetting or environmental review, or is approved or denied by the municipality, only outdated rules and regulations are applicable.

Furthermore, the bill undercuts New York’s environmental review laws by making municipalities responsible to show that a project is likely to cause harm to public and environmental health. Many local governments don’t have the necessary technical or financial resources to establish such a record. Environmental laws properly place such responsibility on the developer.

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Environmental Advocates of New York strongly opposes this bill.