



New York State Dispute Resolution Association, Inc.

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NYSdra Supports The Amendment to General Municipal Law*

DESCRIPTION: An act to amend the general municipal law, section 99-v, in relation to authorizing the use of mediation in municipal land use decisions.

The New York State Dispute Resolution Association Inc. (NYSdra) is a nonprofit professional organization *committed to the promotion of quality conflict management and peaceful dispute resolution, including mediation. Mediation is a voluntary process which focuses on common interests rather than combative legal positions.*

This amendment would grant local governments authority to establish procedures to use mediation for reaching land use decisions. It emphasizes the *voluntary, cooperative* nature of mediation (with its use of a neutral party) for addressing differences and reaching agreement among interested parties. Mediation would be employed to promote timely and effective land use decisions by working to resolve conflicts in review and approval of comprehensive plans, re-zonings, subdivision plats, site plans, special use permits, etc. Mediation would supplement, not replace, existing municipal review procedures and decision making by a local government.

JUSTIFICATION: With developable land becoming increasingly scarce in some areas, and shared environmental resources, issues of use often polarizes community members, developers and local officials. Often, this is not due entirely to the project, but the way the proposals are made, and the community reacts. Interested parties to a land use decision by local governments can often end up in protracted legal disputes. As legal fees soar and court dockets become increasingly congested, local governments in other states and several municipalities in New York State have established mediation as an alternate resolution method.

With the establishment of the "NYS Community Dispute Resolution Centers Program" within the Office of Court Administration (1981), the value of mediation has been recognized and accepted. Through the 62 county-based centers the alternate dispute resolution (ADR) procedure works well in resolving many issues such as education, affordable housing and family issues. The workload of the courts has been reduced. The parties to such decisions have been assisted to reach a satisfactory conclusion with the costs to all parties greatly reduced. The time required to reach a decision is often substantially diminished as well.

Pace University Land Use Law Center conducted a project in six municipalities in the Hudson Valley, applying mediation to environmental and land use decisions. The project was highly successful and the process, when used, did not short circuit municipal planning and zoning processes, but in fact reduced unwieldy land use conflicts. Mediation has been used to resolve many disputes in New York State relating to land use, and has been quite effective in increasing communication among community members, and in resolving disputes.

Mediation can be an effective vehicle for municipalities in sorting out complex, often controversial land use issues. With the help of a trained mediator, local officials and interested parties may be better able to explore alternatives and weigh options that enhance the traditional municipal planning and zoning review process. The process has been relied upon by the NYS Department of Environmental Conservation, and has also been used in similar cases, such as the Greene County Industrial Development Authority (IDA) and addressing concerns over development projects near Exit 21B of the NYS Thruway, the NYS Department of Transportation in a Westchester County state/interstate road improvement project, and the development of a golf course, condominiums, and open space project in Cortlandt, Putnam County.

This amendment is *not a mandate* - it simply provides authorization for local governments to establish mediation as an alternative land use conflict resolution method, while assuring that the rights of individual parties are protected and established planning and zoning review processes are preserved. It has been seen that an earlier facilitated collaborative process results in a faster, more positive outcome. This amendment would do much to promote the quality of life in the Empire State and its localities, protect the interests of land owners and taxpayers, and encourage well-planned development.

FISCAL IMPLICATION: None.

SUPPORT: NYS Dispute Resolution Association, NY Association of Towns, NY Conference of Mayors, American Planning Association – NY Metro Chapter, NYS Association of County Planning Departments, various counties including Southern Tier Central Regional Planning Board, Montgomery County Planning Department, Ontario County Planning Department, various towns including Evans (Erie), Williamson (Wayne), Olean (Cattaraugus), Fallsburg (Sullivan), Penfield (Monroe), Russia (Herkimer), Owego (Tioga), Cochection (Sullivan), Jamestown (Chautauqua), Butternuts (Otsego), Middletown (Delaware), Newark (Wayne) and other businesses and individuals.