Intro. Res. No. 1763-2009 Laid on Table 8/18/2009
Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 905 -2009, ADOPTING LOCAL LAW NO. 36 -2009, A LOCAL LAW TO AMEND RESOLUTION NO. 673-2009, A LOCAL LAW REQUIRING FAIRNESS IN COOPERATIVE HOME OWNERSHIP

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on August 18, 2009, a proposed local law entitled, **"A LOCAL LAW TO AMEND RESOLUTION NO. 673-2009, A LOCAL LAW REQUIRING FAIRNESS IN COOPERATIVE HOME OWNERSHIP"**; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 36 -2009, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND RESOLUTION NO. 673-2009, A LOCAL LAW REQUIRING FAIRNESS IN COOPERATIVE HOME OWNERSHIP

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Resolution No. 673-2009, known as "A Local Law Requiring Fairness in Cooperative Home Ownership" to, among other things, require cooperative boards or associations to give potential buyers written notice of the grounds for a rejection of a potential buyer's application for purchase.

This Legislature further finds that section 89-12 of Chapter 89 of the Suffolk County Code prohibits unlawful discriminatory practices in the sale, lease or rental of real property, including residential cooperatives, and governs the procedure with respect to adjudicating complaints initiated pursuant to said law.

This Legislature also finds that section 89-12 of Chapter 89 of the Suffolk County Code identifies a larger group of individuals than those included in Resolution No. 673-2009, known as "A Local Law Requiring Fairness in Cooperative Home Ownership," which may lead to confusion in the operation of said law, and that said resolution also did not make clear that failure by a cooperative to comply with said law shall be used in any action or proceeding commenced pursuant to section 89-12 of Chapter 89 of the Suffolk County Code.

Therefore, the purpose of this law is to amend Resolution No. 673-2009, "A Local Law Requiring Fairness in Cooperative Home Ownership," to be consistent with section 89-12 of Chapter 89 of the Suffolk County Code, and to clarify that enforcement of this law shall be in accordance with said provision of the Suffolk County Code.

Section 2. Amendments.

I. Section 1 of Resolution No. 673-2009 is hereby amended to read as follows:

Section 1. Legislative Intent.

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This Legislature finds that in many instances, a cooperative board or association rejects a potential buyer, that is seemingly well qualified, without advising the potential buyer of the reasons for said rejection and the concern of the potential buyer has been that the cooperative board or association has rejected the potential buyer unlawfully, based [either] upon actual or perceived race, creed, color, sex, ethnicity, disability, religion, gender, age, sexual orientation, national origin, alienage, citizenship, marital or family status, including segregation.

This Legislature further finds that both Federal, [and] State, and local laws protect Suffolk County residents from unfair housing practices which include discrimination based upon actual or perceived race, creed, color, sex, ethnicity, disability, religion, gender, age, sexual orientation, national origin, alienage, citizenship, marital or family status, including segregation.

This Legislature also finds that presently there are no [such] measures in place that [adequately protect] require potential buyers [from] to receive written notice of the reasons for a[n unlawful] rejection by a cooperative board or association.

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II. Section 3 of Resolution No. 673-2009 is hereby amended to read as follows:

Section 3. Requirements.

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B.) Action Upon Applications.

1.) Within ten days of receipt of a completed application, the cooperative shall provide the applicant with written acknowledgement of receipt of the application. If the application is incomplete or completed incorrectly, the acknowledgement shall instruct the applicant of the time and manner by which the application shall be corrected.

2.) Within forty-five days of receipt of an application, the cooperative shall either reject or approve the application and provide the applicant with written notice thereof, and in the case of any rejection, there shall be notice of the grounds for such rejection.

3.) Failure by a cooperative to take action on a completed application within forty-five days of receipt thereof by either notifying the purchaser of its approval or rejection: may be considered as part of the investigation of any complaint filed with the Suffolk County Human Rights Commission pursuant to section 89-12 of Chapter 89 of the Suffolk County Code; and may be evidence admissible in any action or administrative proceeding commenced pursuant to section 89-12 of Chapter 89 of the Suffolk County Code.

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Section 3. Applicability.

The amendments contained within this law shall take effect immediately upon the effective date of this law.

Section 4. Reverse Preemption.

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal Administrative Agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions in this section.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

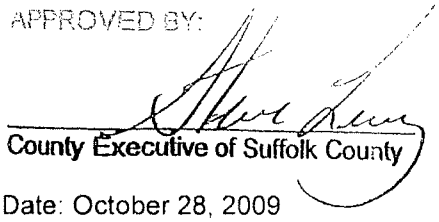
Section 7. Effective Date.

This law shall take effect immediately upon filing with the Secretary of State.

[ ] Brackets denote deletion of language.
__ Underlining denotes addition of new language.

DATED: October 13, 2009

APPROVED BY:



County Executive of Suffolk County

Date: October 28, 2009

After a public hearing duly held on October 26, 2009
Filed with the Secretary of State on November 10, 2009

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County, on October 13, 2009, and signed by the County Executive on October 28, 2009, after a public hearing duly held on October 26, 2009 and filed with the Secretary of State on November 10, 2009 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official Seal of the County Legislature of the County of Suffolk on

Tim Laube

Clerk of the County Legislature