Intro. Res. No. 1918-2009
Introduced by Legislator Stern

Laid on Table 10/13/2009

RESOLUTION NO. 1175 -2009, ADOPTING LOCAL LAW NO. 43 -2009, A LOCAL LAW EXEMPTING CERTAIN ENTITIES FROM REGULATIONS RELATED TO DEALERS IN SECONDHAND ARTICLES

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on October 13, 2009, a proposed local law entitled, "**A LOCAL LAW EXEMPTING CERTAIN ENTITIES FROM REGULATIONS RELATED TO DEALERS IN SECONDHAND ARTICLES**"; now, therefore be it

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

LOCAL LAW NO. 43 -2009, SUFFOLK COUNTY, NEW YORK
A LOCAL LAW EXEMPTING CERTAIN ENTITIES FROM REGULATIONS RELATED TO DEALERS IN SECONDHAND ARTICLES

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 Local Law No. 12-1982 established licensing, record-keeping and reporting requirements for dealers in secondhand articles operating in the County of Suffolk.

This Legislature also finds that Local Law No. 12-1982 was enacted primarily for public safety purposes. Stolen property from burglaries and larcenies is often sold to pawn shops and other dealers in secondhand articles for cash. Requiring these businesses to record their purchases and report this information to the Police Department makes the sale of stolen property more difficult, helps recover stolen property and assists the Police Department apprehending criminals.

This Legislature also finds that the County law regulating secondhand dealers exempts charitable organizations which accept donations of articles for resale. The charitable organizations are exempted because criminals do not donate their stolen goods to charity and therefore, no public safety purpose is served by regulating these organizations.

This Legislature further finds that in recent years a new business model has become more prevalent whereby a not-for-profit entity acquires secondhand articles from non-profit organizations, which received the articles by way of gifts and donations. The for-profit entity then resells the articles to the general public.

This Legislature further finds that regulating businesses that resell articles that have been attained directly or indirectly by way of gift or donation, and which in no way involves "black market" activity, serves no legitimate law enforcement purpose.

Therefore, the purpose of this law is to exempt from the law regulating dealers in secondhand articles entities that resell articles that have been acquired from organizations that obtained those articles, in the first instance, by way of gift or donation.

Section 2. Amendments.

Article V of Chapter 345 of the SUFFOLK COUNTY CODE is hereby amended as follows:

ARTICLE V, Dealers in Secondhand Articles.

§ 345-47. Definitions.

* * * *

B. Exempted operations:

* * * *

4. Organizations or persons that resell secondhand articles acquired solely from:

a) other organizations or persons which received the secondhand articles by way of gift or donation, or

b) members of the general public by way of gift or donation.

* * * *

Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 4. 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 5. 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 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[ ] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: December 15, 2009

APPROVED BY:

County Executive of Suffolk County

Date: December 31, 2009

After a public hearing duly held on December 29, 2009
Filed with the Secretary of State on January 20, 2010

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 December 15, 2009, and signed by the County Executive on December 31, 2009, after a public hearing duly held on December 29, 2009 and filed with the Secretary of State on January 20, 2010 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