Intro. Res. No. 1412-2010 Laid on Table 4/27/2010
Introduced by Legislators Kennedy, Romaine, Presiding Officer Lindsay, Browning, Schneiderman, Viloria-Fisher and Cooper

RESOLUTION NO. 653 -2010, ADOPTING LOCAL LAW NO. 44 -2010, A LOCAL LAW ESTABLISHING FAIR AND OBJECTIVE PROCEDURES FOR CONTRACTING TITLE INSURANCE WORK

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 27, 2010 a proposed local law entitled, "**A LOCAL LAW ESTABLISHING FAIR AND OBJECTIVE PROCEDURES FOR CONTRACTING TITLE INSURANCE WORK**"; now, therefore be it

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

LOCAL LAW NO. 44 -2010, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW ESTABLISHING FAIR AND OBJECTIVE PROCEDURES FOR CONTRACTING TITLE INSURANCE WORK

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

Section 1. Legislative Intent.

This Legislature finds that the County of Suffolk has led the nation in the protection of environmentally sensitive lands since 1973.

This Legislature hereby finds and determines that the County of Suffolk regularly engages in the acquisition and disposition of real property and utilizes the services of title insurance companies during these transactions.

This Legislature further finds that no procedures or regulations presently exist to guide the County's award of title insurance business.

This Legislature determines that in recent years most of the County's title insurance work has been awarded to three companies despite the fact that the title insurance industry is tightly regulated by the State of New York and there is little variation in the prices charged by title companies.

This Legislature also finds that media reports showed that the companies receiving title work from the County made significant political contributions to certain County officials, thereby creating the appearance of a "pay to play" system.

This Legislature further finds that even the appearance of impropriety in the selection of companies the County does business with undermines the confidence of citizens in County government.

This Legislature determines that the County of Suffolk previously enacted legislation to standardize the selection of real estate appraisers.

This Legislature also finds that the County of Suffolk can and should develop objective procedures and criteria for contracting title insurance services and thereby eliminate the appearance of favoritism.

Therefore, the purpose of this local law is to establish procedures and criteria that will require the County of Suffolk to hire qualified title insurance companies on a rotating basis.

Section 2. Amendment.

Article 42 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

Article XLII. DEPARTMENT OF ENVIRONMENT AND ENERGY

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§A42-9. Procedures for Title Insurance.

A. There shall be within the Division of Real Property Acquisition and Management a pool of at least ten (10) qualified title insurance companies, which companies shall be designated by the Director of the Division of Real Property Acquisition and Management with the approval of the County Legislature by duly enacted resolution. Such information as may be reasonably necessary to evaluate the title insurance companies, including, but not limited to, certifications and licenses, shall be included with the resolution submitted for approval. Designation and approval of the pool of qualified title insurance companies by the County Legislature shall occur no less frequently than every two (2) years.

B. At a minimum, any title insurance company must be qualified as a New York licensed title insurance company and must maintain such license in good standing for so long as they are involved in County real estate transactions. Proof of such license and certifications shall be submitted to the Director of the Suffolk County Division of Real Property Acquisition and Management on or before December 31 of each year. Further, any title insurance company in the pool must disclose to the Division of Real Property Acquisition and Management the organization of the company (i.e. sole proprietorship, partnership, corporation, limited liability corporation, et. al), the identity of licensed agents who have the capacity to bind the company, and any other information relevant to the company or underwriter operations. No company utilizing the services of an agent or underwriter with a record of a felony conviction within the preceding ten years shall be eligible to be enrolled in this pool.

C. The Director of the Division of Real Property Acquisition and Management shall select on a rotating basis from the pool of title insurance companies to conduct County real estate transactions.

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Section 3. Applicability.

This law shall apply to all 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: June 22, 2010

APPROVED BY:

VETOED

County Executive of Suffolk County

Date: 7-23-10

VETO OVERRIDE ADOPTED ON AUGUST 3, 2010

After a public hearing duly held on July 6, 2010
Filed with the Secretary of State on August 23, 2010

COUNTY OF SUFFOLK

OFFICE OF THE COUNTY EXECUTIVE

Steve Levy
COUNTY EXECUTIVE

July 23, 2010

Presiding Officer William J. Lindsay and
Members of the Suffolk County Legislature
William H. Rogers Legislative Building
725 Veterans Memorial Highway
Smithtown, New York 11787

RE: RESOLUTION NO. 653-2010, A LOCAL LAW ESTABLISHING FAIR AND OBJECTIVE PROCEDURES FOR CONTRACTING TITLE INSURANCE WORK.

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein "**Resolution No. 653- 2010 A Local Law establishing fair and objective procedures for contracting title insurance work** vetoed in its entirety.

This resolution directs the Division of Real Property Acquisition and Management to establish and manage a pool of no less than 10 title insurance companies and to rotate title insurance work for the county to each of the firms.

As our Director of the Division of Real Property Acquisition and Management and Bureau Chief of the Real Estate/Condemnation unit have both testified, establishing a pre-set rotation of firms to provide title insurance work for the county runs counterintuitive to good business practices in that it removes all discretion for the Division to obtain work from the most logical firm.

As I am sure those of you with a legal or real estate background are aware, not every title insurance company is the same. Not every company provides the same type of service, has the same level of expertise or gives the same level of attention needed for a municipal transaction.

In considering the assignment of a title insurance company for a particular acquisition, consideration should be given to:

A. the size of the acquisition, to determine if the firm has the staff and capability to handle a large purchase;
B. the timeliness of the purchase, to determine if the firm can do the work quickly;

LOCATION:
H. LEE DENNISON BUILDING, 12th FLOOR
100 VETERANS MEMORIAL HIGHWAY

MAILING ADDRESS:
P.O. BOX 6100
HAUPPAUGE, NY 11788-0099

OFFICE (631) 853-4000
FAX (631) 853-4818

C. any special title issues regarding the property, to determine if the firm has the expertise, ability and willingness to deliver clear title;
D. the title company that did the last title insurance work on the property;
E. if there are related purchases, such as adjoining parcels for condemnation.

Under a strict rotational selection, example A might be given to a small firm unable to handle a large and complicated transaction; example B might be given to a firm overcommitted to projects and unable to meet a tight deadline; example C might be given to a firm without the expertise to deliver a clear title; example D might be given to a firm unfamiliar with the property, thus duplicating work another title company in the rotation may have done a few years earlier; and example E could find several title companies doing work that should have more logically been done by a single company.

No other vendors used by the county in real estate matters (i.e., surveyors, appraisers or environmental assessment companies) are subject to hiring on a strict rotational basis, and this legislation purports to correct something that has not been a problem.

The fifth paragraph of Legislative Intent cites recent "...media reports." Call me cynical, but it is always dangerous to base legislation on "media reports" rather than on the Legislature's own findings and determinations.

In fact, there has been no suggestion that the County has overpaid for title insurance work, or that the County has received title insurance work that has been faulty or shoddy.

The County Attorney's office has used a pool of 6-8 companies for title insurance, where work is assigned based upon many of the factors outlined above. As the real estate market and economy have slowed down, several have gone out of business and the number of purchases at present time do not warrant adding a significant number of companies and establishing a rotating pool.

For these reasons, I strongly urge the Legislature to sustain my veto of this resolution.

Sincerely,

Steve Levy

Steve Levy
County Executive of Suffolk County

cc: All Suffolk County Legislators
Tim Laube, Clerk of the Legislature
Christine Malafi, Esq., Suffolk County Attorney

Lynne A. Bizzarro, Esq., Chief Deputy County Attorney
Christopher Kent, Chief Deputy County Executive
Edward Dumas, Chief Deputy County Executive
Connie Corso, Deputy County Executive for Finance and Management
Ken Crannell, Deputy County Executive
Ben Zwirn, County Executive Assistant
Eric Naughton, Budget Director
Dan Aug, Director of Communications
Mark L. Smith, Deputy Director of Communications

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature 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 June 22, 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.

Tim Laube

Clerk of the Legislature

Intro. Res. 1412 Res. No. 653 June 22, 2010

Motion:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6	Daniel P. LOSQUADRO	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA		✓			
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER				✓	
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	16	1	—	1	—

MOTION

X Approve
___ Table: _____
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule ____
___ Override Veto
___ Close
___ Recess

APPROVED X FAILED ___
No Motion ___ No Second ___

RESOLUTION DECLARED

X ADOPTED
___ NOT ADOPTED

Roll Call X Voice Vote ___

Tim Laube
Tim Laube, Clerk of the Legislature

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature 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 August 3, 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.

Tim Laube
Clerk of the Legislature

Intro. Res. 1412 Res. No. 653 August 3, 2010

Motion:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6	Daniel P. LOSQUADRO	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA		✓			
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER	✓				
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	17	1	—	—	—

MOTION

____Approve
____Table:_____
____Send To Committee
____Table Subject To Call
____Lay On The Table
____Discharge
____Take Out of Order
____Reconsider
____Waive Rule ____
X Override Veto
____Close
____Recess

APPROVED X FAILED____
No Motion___ No Second___

RESOLUTION DECLARED

X ADOPTED
____NOT ADOPTED

Roll Call____Voice Vote X

Tim Laube
Tim Laube, Clerk of the Legislature