

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

STEVE LEVY  
COUNTY EXECUTIVE

May 26, 2010

Mr. Timothy Laube  
Clerk of the Legislature  
Suffolk County Legislature  
Veterans Memorial Highway  
Hauppauge, New York 11788

2010 MAY 26 PM 4:35

**RE: - April 27, 2010 – Legislative General Meeting**

**Vetoed 2010 Resolution: # 315-2010 – A Local Law to Expand Opportunities to Create Housing Under the 72-H Transfer Program**

Dear Mr. Laube:

Attached please find the above resolutions, which have been acted upon as indicated.

Very truly yours,

**Brendan Chamberlain**  
Intergovernmental Relations Director

Received by gl. Howard Date 5/26/10 Time 4:35P

BC:gg  
Enclosure

Intro. Res. 1276

Res. No. 315

April 27, 2010

**Motion:**

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

**Co-Sponsors:**

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

**Second:**

Romaine, Schneiderman, Browning, Muratore, Losquadro  
Eddington, Montano, Cilmi, Lindsay, Viloría-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	18				

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule _____
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____      No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

*Tim Laube*

Tim Laube, Clerk of the Legislature

Roll Call \_\_\_\_\_ Voice Vote

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy  
COUNTY EXECUTIVE

May 26, 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. 315-2010, ADOPTING LOCAL LAW NO.  
-2010, A LOCAL LAW TO EXPAND OPPORTUNITIES TO CREATE  
HOUSING UNDER THE 72-H TRANSFER PROGRAM**

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein RESOLUTION 315-2010, A LOCAL LAW TO EXPAND OPPORTUNITIES TO CREATE HOUSING UNDER THE 72-H TRANSFER PROGRAM vetoed in its entirety for the following reasons:

1) The 72-h affordable housing transfer program is the ONLY County affordable housing program dedicated to serving families earning 80% and under of the HUD area median income. Currently, that equates to \$81,450 for a family of 4. We have addressed the need to service families earning up to 120% of the HUD AMI in other programs including the County's Land Acquisition and Infrastructure Programs.

2) The property available for affordable housing under the 72-h land program represents a limited resource that works properly at the targeted 80% level, particularly when you factor in that the land is transferred at no cost to the non-profit developer thereby eliminating added development costs.

There is no reason that the homes can't be built and delivered as affordable to households at 80% and under. In fact, most of the properties developed by Habitat, for example, are targeted at 60% and under.

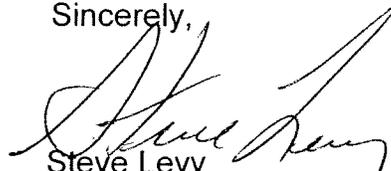
This legislation was introduced as a result of properties previously transferred to the Village of Southampton which requested that it be able to increase the target income to 120%. We have received no documentation evidencing the fact that the homes can't, from a development/cost perspective, be built to the 80% level.

3) At anything over 80%, additional subsidies under the federal HOME program, and necessary to make the house affordable in many cases, would be lost.

4) The concept of increasing the limit to 120% for the 72-h program was previously considered by the Legislature (IR2579-2007) and stricken in recognition of the above reasons.

For the reasons stated above, I urge the Legislature to sustain my veto.

Sincerely,



Steve Levy  
County Executive of Suffolk County

SL:ir

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  
Dan Aug, Director of Communications  
Mark Smith, Deputy Director of Communications

**RESOLUTION NO. 315 -2010, ADOPTING LOCAL LAW  
NO. -2010, A LOCAL LAW TO EXPAND OPPORTUNITIES  
TO CREATE HOUSING UNDER THE 72-H TRANSFER  
PROGRAM**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on March 2, 2010, a proposed local law entitled, "**A LOCAL LAW TO EXPAND OPPORTUNITIES TO CREATE HOUSING UNDER THE 72-H TRANSFER PROGRAM**"; now, therefore be it

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

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

**A LOCAL LAW TO EXPAND OPPORTUNITIES TO CREATE  
HOUSING UNDER THE 72-H TRANSFER PROGRAM**

**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 transfers of County-owned land to towns and villages pursuant to NEW YORK GENERAL MUNICIPAL LAW § 72-h, play a critical role in the creation of affordable/workforce housing in Suffolk County.

This Legislature further finds that while Local Law No. 37-2006 amended affordability and income limit requirements under the County's Workforce Housing Program in order to increase flexibility and expand opportunities to develop housing, § 72-h program requirements went unchanged by this local law.

This Legislature also determines that many prospective first time homebuyers whose incomes exceed the limits currently prescribed under the § 72-h program, continue to be priced out of the Long Island housing market.

This Legislature also determines that the § 72-h transfer program should be flexible so that the County can take advantage of all opportunities to develop affordable housing in our communities and better serve the needs of first time homebuyers.

Therefore, the purpose of this local law is to authorize the Director of Workforce Housing to waive the income limits of the § 72-h transfer program and authorize the transfer of homes constructed under this program to persons whose incomes do not exceed 120% of the HUD established median income limits for our region.

**Section 2. Amendments.**

Article 36 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

**ARTICLE XXXVI  
Affordable Housing**

\* \* \* \*

**§ A36-2. Suffolk County housing opportunities programs.**

B. New York State General Municipal Law § 72-h transfer program.

\* \* \* \*

- (1) Designated uninhabitable improved parcels and vacant parcels shall be transferred by the County to participating municipalities for nominal consideration and shall be constructed and/or reconstructed for affordable housing purposes. These parcels shall be subject to covenants and restrictions requiring cooperating municipalities to transfer these parcels to eligible individuals whose income does not exceed 80% of the HUD-established limits for the Nassau-Suffolk PMSA adjusted by family size unless the Director, subject to legislative approval, issues a waiver and authorizes the transfer to eligible individuals whose income do not exceed 120% of the HUD established limits. Units constructed and/or reconstructed on a parcel transferred pursuant to this Subsection B, and sold or rented subject to a hierarchy of local preferences established by the participating municipality, shall be constructed and/or reconstructed, as the case may be, using design and construction features in compliance with § A36-3 of this article, and shall be made available to military veterans pursuant to such local preference who served during expeditionary service in a theater of conflict in Iraq or Afghanistan, as verified by the Director of the Suffolk County Veterans Agency, which credentials shall qualify such persons as first-time homebuyers as defined in this article, subject to the following:

\* \* \* \*

- (2) Deed restrictions.
- (a) Parcels transferred pursuant to this section shall be to a first-time homebuyer and shall contain deed restrictions as follows:
- [1] For owner-occupied housing:
- [a] Property must remain the principal residence of owner for a period of at least five consecutive years;
- [b] Income of first-time homebuyer must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size or, in the case where a waiver has been issued by the Director as authorized under § A36-2(B)(1), income must not exceed 120% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size;

[c] Subsidized purchase price of home shall not exceed 60% of median sales price for Suffolk County based on State of New York Mortgage Agency (SONYMA) guidelines; and

[d] Construction must be completed and the housing occupied by eligible purchasers within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution.

[e] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

[2] For rental housing:

[a] Income of purchaser must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size or, in the case where a waiver has been issued by the Director as authorized under § A36-2(B)(1), income must not exceed 120% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size;

[b] Rent shall not exceed HUD established fair market rent for the Nassau-Suffolk PMSA based on bedroom size;

[c] Home must meet local building and zoning codes;

[d] Construction must be completed and the housing occupied by eligible tenants within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution; and

[e] Property must remain in the possession of tenants who meet the income limits and rental limits set forth in § A36-2B(2)(a)[2][a] and [b] above for at least 10 consecutive years after the transfer date.

[f] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

\* \* \* \*

### **Section 3. Rules and Regulations.**

The Director of Affordable Housing shall, within 90 days of the effective date of this law promulgate rules, regulations and criteria necessary to implement this law.

**Section 4. Applicability.**

This law shall apply to § 72-h transfers occurring on or after the effective date of this law.

**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 its filing in the Office of the Secretary of State.

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

DATED: April 27, 2010

APPROVED BY:

**VETOED**

County Executive of Suffolk County

Date: 5-26-10

## **LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that the Suffolk County Legislature has passed Introductory Resolution No. 1276-2010 and presented to me for approval Local Law No. -2010, A Local Law to Expand Opportunities to Create Housing Under the 72-H Transfer Program which law allows the Suffolk County Director of Affordable Housing, with the approval of the County Legislature, to issue waivers authorizing participating municipalities to transfer affordable housing parcels to individuals with incomes up to 120% of the HUD established limits.

NOTICE IS FURTHER GIVEN that the County Executive will hold a public hearing on the aforesaid Local Law at 9:30 a.m., prevailing time, on May 10, 2010 in the H. Lee Dennison Building , Media Room, 100 Veterans Memorial Highway, Hauppauge, New York, at which time all interested persons will be heard.

STEVE LEVY  
Suffolk County Executive

DATED: Hauppauge, New York