

The New York Upstate Chapter of the American Planning Association Opposes the Vested Rights for Development Bill (S.3852a Flanagan, et al. A.6023 Bradley, et al.)

Summary:

This bill would amend Article 7B of the General Municipal Law by adding a new section 150 relative to the ability of a property owner to develop or alter his/her property under local codes, laws, ordinances, rules and regulations which are in existence at the time of filing of the application for approval of the improvement, development or addition with an Environmental Assessment Form, or alternatively, at the discretion of the applicant upon the filing of a Draft Environmental Impact Statement.

The bill states there shall be a rebuttable presumption that municipal zoning, planning and environmental enactments by a Village, Town or City regulating the development of land as of the filing date of a complete application for a project shall remain applicable to the proposed project for a period of **no less than six years** as long as it is being pursued with due diligence by the applicant.

APA Position:

Developers desire predictability. Having to alter redraw plans and redo studies associated with development can be costly and time consuming. This bill however will tie the hands of many communities ill equipped to marshal the appropriate information to justify an exception or the monetary resources to support such a position. There are better ways to ensure the planning process is proactive and responsive to the desires of the community while remaining fair and economical to the developer. Improved communication and collaboration by the various levels of governments, citizens, developers, and other interested parties is needed to improve efficiency and build better communities. Reform of state planning enabling acts to promote proactive planning that encourages regional cooperation, collaborative citizen participation in public life, diverse neighborhoods, the equitable distribution of resources, and fiscal responsibility is a better approach to ensure the development process is both fair for developer and communities.

APA and its professional institute, the American Institute of Certified Planners, are dedicated to advancing the art, science, and profession of good planning — physical, economic, and social — so as to create communities that offer better choices for where and how people work and live. Members of APA help create communities of lasting value and encourage civic leaders, business interests, and citizens to play a meaningful role in creating communities that enrich people's lives. APA has offices in Washington, D.C., Chicago, Ill., and Shanghai, China. For more information, visit its website at <http://www.planning.org> or the Upstate Chapter website <http://www.nyupstateplanning.org>

The New York Upstate Chapter of the American Planning Association supports:

- 1. The Community Preservation Act (A.7333, S.3836)**
 - 2. Expanding the Hudson Valley Community Preservation Act (A.7849b Bradley, S.6271 Leibell):**
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The American Planning Association and its Chapters support planning, development, and preservation policies and legislation that conserve undeveloped land, open space, agricultural land, protect water and soil quality, consciously restore ecosystems, and that minimize or eliminate the disruption of existing natural ecosystems and floodplains. Such legislation includes the Community Preservation Act.

The Community Preservation Act [CPA] will help communities accomplish the following goals:

Enhance municipal home rule: The CPA will not be a cookie cutter approach. The CPA will give communities the option of pursuing its enactment on the local level. Each community will develop its own approach to problem solving and planning while involving the public, private and non-profit sectors.

Help citizens plan and prioritize open space and other preservation projects within their own communities. Plans that are citizen-based, reflecting citizen intents and visions for their communities' futures, have the highest probability of successful adoption and implementation. Citizen participation in planning helps ensure fair and efficient targeting of resources to community needs.

Streamlines the development process: Communities will be able to identify, prioritize and protect land they value as part of a community preservation planning process. This is a less contentious method than protecting land in response to a development proposal.

Help communities protect their natural systems: The CPA will help communities sustain the ability of natural systems to provide the life-supporting "services" that are rarely counted by economists, but which have recently been estimated to be worth nearly as much as total gross human economic product. These critical natural and open space resources contribute as well to "quality of life" as an essential part of local and regional community character.

Help Curb Suburban Sprawl: Current growth in suburban land use far exceeds the population growth in Upstate New York. The CPA will help communities and regions target areas for growth as well as areas for preservation

Help slow the loss of agricultural land and open space. From 1970 to 1990, more than 19 million acres (30,000 square miles) of rural lands were developed. Every year, construction transforms 400,000 acres of high quality farmland. This amounts to 45.6 acres every hour of every day. Such development weakens the agricultural basis upon which people depend, as well as the natural resources upon which all life depends.

Help maintain Agriculture as a viable economic development driver: Agriculture is important to New York State. Agricultural production returned over \$3.6 billion to the farm economy in 2005. About 25 percent of the state's land area, or 7.55 million acres, are used by the 35,600 farms to produce a very diverse array of food products.

Help Communities Maintain a “Sense of Place”: A “sense of place” results when design and development protect and incorporate the distinctive character of a community and the particular place in which it is located. Geography, natural features, climate, culture, historical resources, and ecology each contribute to the distinctive character of a region.

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The New York Upstate Chapter of the American Planning Association Endorses the Green Building Construction Act A.2005a (Lupardo, et al, S.5442a Marcellino)

Summary

This bill would require that construction of all new state buildings, and substantial renovations of existing buildings, comply with energy consumption and resource use standards established by the Department of Environmental Conservation (DEC) in consultation with other state agencies and authorities. Further, the bill would authorize the Power Authority of the State of New York (PASNY) to enter into contractual arrangements for the financing of such projects.

APA position

The New York Upstate Chapter supports environmentally conscious design and construction, including “green architecture” practices, adoption of LEED Green Building Rating System and the adaptive reuse of buildings, and land recycling. The U.S. Green Building Council (USGBC), a national nonprofit organization representing all parts of the building industry, has documented the environmental impact of buildings.

Impacts reported as of January 2002 include, for commercial and residential construction:

- **65% of total U.S. electricity consumption**
- **36% of total U.S. energy use**
- **30% of U.S. greenhouse gas emissions**
- **136 million tons of construction and demolition waste in the U.S. (almost 3 pounds per person per day)**
- **40% of raw material use globally.**

States have a leadership role in fostering long-term, smart growth decisions. New York State by example will be able to foster the universal adoption of green building techniques by local governments, builders and citizens.

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The New York Upstate Chapter of the American Planning Association Endorses the Smart Growth for a New Century Act. (S.4369 A.7335)

The American Planning Association and its Chapters affirm that reforming state legislation is necessary to implement Smart Growth.

In contrast to prevalent development practices, Smart Growth refocuses a larger share of regional growth within central cities, urbanized areas, inner suburbs, and areas that are already served by infrastructure. Smart Growth reduces the share of growth that occurs on newly urbanizing land, existing farmlands, and in environmentally sensitive areas. In areas with intense growth pressure, development in newly urbanizing areas should be planned and developed according to Smart Growth principles.

The Smart Growth for a New Century Act:

Establishes an Adaptable Framework for Smart Growth: States have a leadership role in fostering long-term, smart growth decisions. While land use regulatory decisions are largely the responsibility of local government in New York State, state programs, policies, and enabling legislation can have a profound affect on local planning and decision-making. This legislation will help enable local governments to foster more sensible, planned growth by facilitating increased communication between state departments and local governments and among local governments within a region.

Supports Regional and Intermunicipal Planning: Most major growth-related problems are regional, not local, in nature. Given the fragmented nature of local governance, individual community success in implementing Smart Growth is likely to shift development to other parts of the region. New York State has the opportunity to pass this modern enabling legislation that promotes Smart Growth planning and development at the regional level.

Integrates Actions Across Levels of Government: A statewide framework is needed to coordinate and integrate actions on such vital areas as transportation, infrastructure, and environmental policy. The most effective planning will integrate these areas with housing, economic development and other areas. This framework will also engage regional planning efforts to create a mutually supported plans at multiple levels so all levels of government are working in concert to achieve Smart Growth goals.

Ensures the Efficient use of Infrastructure Funds: Efficient use of transportation funds requires using them to maximize the operational efficiency of the transportation system. Transportation investments made without regard to existing system deficiencies:

- result in sprawling, unplanned development, and allow existing transportation systems to deteriorate
- waste money by allowing funds to be expended for facilities that do not address problems
- lead to redundancies and inefficiencies as construction does not address real needs

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The New York Upstate Chapter of the American Planning Association Opposes Sprawl Subsidies (A. 871 Destito, S. 1483 Skelos)

Summary:

Authorizes municipalities to re-direct real property tax payments made by project occupants which agree to invest in or construct infrastructure improvements for any economic development projects; such re-directed payments shall be used to retire any debt incurred for the construction and development of such infrastructure improvements.

APA Position:

Efficient use of public and private infrastructure starts with creating neighborhoods that maximize the use of existing infrastructure. In areas of new growth, roads, sewers, water lines, schools and other infrastructure should be planned as part of comprehensive growth and investment strategies. This bill allows municipalities to give a 100% credit to developers on property taxes to defray the initial cost of infrastructure improvements, including construction costs and interest paid, up to the value of the improvement.

Upstate New York is facing a daunting paradox: sprawl without growth. The cost of infrastructure that supports sprawl development is seen by many as environmentally destructive and a serious misallocation of resources. The high cost of providing basic infrastructure and services, especially in rural communities, demands efficient use of existing facilities, and compact development. This bill would not support these goals and could potentially provide a subsidy for developers to build infrastructure that supports sprawl.

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The New York Upstate Chapter of the American Planning Association Supports the State Smart Growth Public Infrastructure Policy Act (S. 4369, A. 7335)

The American Planning Association and its Chapters affirm that reforming state legislation is necessary to implement Smart Growth.

In contrast to prevalent development practices, Smart Growth refocuses a larger share of regional growth within central cities, urbanized areas, inner suburbs, and areas that are already served by infrastructure. Smart Growth reduces the share of growth that occurs on newly urbanizing land, existing farmlands, and in environmentally sensitive areas. In areas with intense growth pressure, development in newly urbanizing areas should be planned and developed according to Smart Growth principles.

Summary:

Establishes the "state smart growth public infrastructure policy act"; provides privity in public funding for projects which use, maintain or improve existing infrastructure and which protect and preserve natural resources and authorizes each state infrastructure agency to create a smart growth advisory committee. The bill also establishes "State Smart Growth Infrastructure Criteria." State agencies designated as "infrastructure agencies" would need to examine all project financed with consideration to the smart growth criteria. The bill would further establish a preference for the construction of state facilities in established urban and suburban centers, prioritize projects located in designated development areas identified in locally adopted land use plans.

APA Position:

Local governments have long been the principal stewards of land and infrastructure resources through implementation of land use policies. Smart Growth respects that tradition, yet recognizes the important roles that federal and state governments play as leaders and partners in advancing Smart Growth principles at the local level. State and federal policies and programs have contributed to urban sprawl and need to be re-examined and replaced with policies and programs that support Smart Growth, including cost effective, incentive-based investment programs that target growth-related expenditures to locally-designated areas. This bill will help ensure the efficient use of public and private infrastructure because it focuses on creating neighborhoods that maximize the use of existing infrastructure.

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