Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York, in relation to the disclosure of information regarding certain construction projects.

Sponsors: Domenic M. Recchia, Jr., Ruben Wills, Gale A. Brewer, Margaret S. Chin, Inez E. Dickens, Daniel Dromm, Lewis A. Fidler, Vincent J. Gentile, G. Oliver Koppell, Karen Koslowitz, Brad S. Lander, Stephen T. Levin, Darlene Mealy, Deborah L. Rose, James G. Van Bramer, Albert Vann, Mark S. Weprin, Jumaane D. Williams, Jessica S. Lappin, Michael C. Nelson, Sara M. Gonzalez, Peter A. Koo, Robert Jackson, James F. Gennaro, Daniel R. Garodnick, Elizabeth S. Crowley, Leroy G. Comrie, Jr., David G. Greenfield, Charles Barron, Ydanis A. Rodriguez, James S. Oddo, Eric A. Ulrich, Daniel J. Halloran III

Indexes:

Attachments: 1. Int. No. 730 - 12/8/11, 2. Memorandum In Support, 3. Committee Report 1/30/12, 4. Hearing Testimony 1/30/12, 5. Hearing Transcript 1/30/12, 6. Committee Report 7/25/12, 7. Hearing Transcript 7/25/12, 8. Fiscal Impact Statement 7/25/12, 9. Hearing Transcript - Stated Meeting 7-25-12, 10. Mayor's Veto Message, 11. Vetoed Bill, 12. Committee Report 9/24/12, 13. Hearing Transcript 9/24/12, 14. Fiscal Impact Statement 9/24/12, 15. Letter to Mayor Regarding Override, 16. Hearing Transcript - Stated Meeting 9-24--12, 17. Local Law

Date	Ver.	Action By	Action	Result
12/8/2011	*	City Council	Introduced by Council	
12/8/2011	*	City Council	Referred to Comm by Council	
1/30/2012	*	Committee on Housing and Buildings	Hearing Held by Committee	
1/30/2012	*	Committee on Housing and Buildings	Laid Over by Committee	
7/25/2012	*	Committee on Housing and Buildings	Hearing Held by Committee	
7/25/2012	*	Committee on Housing and Buildings	Amendment Proposed by Comm	
7/25/2012	*	Committee on Housing and Buildings	Amended by Committee	
7/25/2012	A	Committee on Housing and Buildings	Approved by Committee	Pass
7/25/2012	A	City Council	Approved by Council	Pass
7/25/2012	A	City Council	Sent to Mayor by Council	
8/24/2012	A	Mayor	Vetoed by Mayor	
9/24/2012	A	Committee on Housing and Buildings	Approved by Committee	Pass
9/24/2012	A	Committee on Housing and Buildings	Hearing Held by Committee	

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9/24/2012 A City Council Overridden by Council Pass

Int. No. 730-A

By Council Members Recchia, Wills, Brewer, Chin, Dickens, Dromm, Fidler, Gentile, Koppell, Koslowitz, Lander, Levin, Mealy, Rose, Van Bramer, Vann, Weprin, Williams, Lappin, Nelson, Gonzalez, Koo, Jackson, Gennaro, Garodnick, Crowley, Comrie, Greenfield, Barron, Rodriguez, Oddo, Ulrich and Halloran

A Local Law to amend the administrative code of the city of New York, in relation to the disclosure of information regarding certain construction projects.

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10

HOUSING DEVELOPMENT PROJECT REPORTING REQUIREMENTS

§ 26-901 Definitions.
§ 26-902 Reporting on prequalified lists and disqualified lists.
§ 26-903 Reporting on housing development projects.
§ 26-904 Wage information reporting.
§ 26-905 Ineligibility for inclusion on prequalified lists.

§ 26-901 Definitions. For the purposes of this chapter only, the following terms shall be defined as follows:

a. "City financial assistance" includes any loans, grants, tax credits, tax exemptions, tax abatements, subsidies, mortgages, debt forgiveness, land conveyances for less than appraised value, land value or other thing of value allocated, conveyed or expended by the city.

b. "Construction condition" means:

(1) a violation of the New York city construction codes issued to a housing development project, a developer or a covered contractor of such housing development project, during the project work or within a five-year period following the completion of such project;

(2) a complaint related to the construction quality of a housing development project received by the department during the project work or within a five-year period following the completion of such project;

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(3) a determination by the department, during the project work or within a five-year period following completion of such project, that the construction quality of a housing development project does not comply with applicable law or does not conform to customary standards for construction in the city of New York.

c. "Contractor" means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that enters into a contract or other agreement with or is otherwise engaged by a developer or the department to perform project work.

d. "Covered contractor" means a contractor or subcontractor whose annual gross revenue for the immediately preceding tax year is not less than two million five hundred thousand dollars, calculated in accordance with section 779.266 of title 29 of the code of federal regulations; provided, however that where an entity is a principal owner of, serves as principal officer of, conducts or participates directly or indirectly in the conduct of the affairs of such contractor or subcontractor and any other contractor or subcontractor, the annual gross revenue for the immediately preceding tax year for each such contractor or subcontractor shall be aggregated and, if such aggregated value is not less than two million five hundred thousand dollars, each such contractor or subcontractor shall be a covered contractor.

e. "Department" means the department of housing preservation and development.

f. "Developer" means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that receives city financial assistance for a housing development project.

g. "Disqualified list" means a list that identifies entities that are precluded by the department from being selected as developers where "disqualified" shall mean debarred, suspended or otherwise prohibited for any length of time. Such term shall also include a list of entities that are ineligible to be included on a list of prequalified contractors or subcontractors.

h. "Housing development project" means construction, rehabilitation or alteration of any residential building, residential facility or residential structure by a developer (1) which creates or preserves at least one dwelling unit; (2) which is funded in whole or in part by city financial assistance other than non-discretionary

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tax abatements or benefits approved or administered in accordance with sections 421-a or 489 of the New York state real property tax law or other similar programs and (3) where the developer of such project was not selected more than five years prior to the effective date of this chapter. The term "housing development project" shall not include emergency repairs performed by or on behalf of the department pursuant to section 27 -2125 of this code, work performed by or on behalf of the department pursuant to section 27-2153 of this code, demolition work performed by or on behalf of the department pursuant to articles two hundred fifteen or two hundred sixteen of chapter two of title twenty-eight of this code, or work funded by the department pursuant to article seven-a of the New York state real property actions and proceedings law.

i. "List identifier" means a description of the purpose for which a disqualified list or prequalified list is used by the department that shall include the types of housing development projects for which the list is used.

j. "Prequalified list" means a list that identifies entities that are prequalified to be selected as developers and that was compiled, modified or used by the department to select developers within the immediately preceding five-year period; provided, however that the term "prequalified list" shall also include a list of entities that the department compiles and makes available to developers to assist in the selection of contractors and subcontractors to perform project work.

k. "Principal officer" means an individual who serves as or performs the functions of chief executive officer, chief financial officer or chief operating officer of an entity.

l. "Principal owner" means an individual, partnership, joint venture, corporation or other entity which holds a ten percent or greater ownership interest in an entity or holds an ownership interest as a general partner, managing partner or other position conducting or participating directly in the conduct of the affairs of an entity. The term "principal owner" shall not include a limited partner of a limited partnership or an equity investor in a limited liability company or a limited liability partnership where such equity investor does not conduct or participate directly in the conduct of the affairs of the limited liability company or limited liability partnership.

m. "Project identifier" means a description of a housing development project sufficient to identify such

project.

n. "Project work" means construction, rehabilitation, alteration or demolition work performed in connection with a housing development project. Such term shall not include professional services including architectural, engineering, legal or accounting services or administrative, clerical or other similar office support services, or individuals solely engaged in managing, directing or supervising project work.

o. "Subcontractor" means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that enters into a contract or other agreement with or is otherwise engaged by a contractor, the department or other entity to perform project work.

§ 26-902 Reporting on prequalified lists and disqualified lists.

a. For each prequalified list, the department shall make available on its website the list identifier and the criteria used by the department to determine whether an entity qualifies for such list.

b. For each disqualified list, the department shall make available on its website the list identifier, the name and address of each entity on such list and the name and title of each principal officer and principal owner of such entity and the criteria used by the department to determine whether an entity is disqualified.

§ 26-903. Reporting on housing development projects.

a. For each housing development project, the department shall make available on its website the following information:

(1) the project identifier;

(2) the program name as identified by the department and the list identifiers of all prequalified lists used in connection with such program;

(3) the address; block; lot number; stories; square footage of the building at its base; the number of proposed dwelling units including the number of bedrooms, disaggregated by income limits and all initial legal and actual rents; and the number of proposed commercial units;

(4) the source, type and value of all city financial assistance and other financial assistance provided by

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the city, disaggregated by source and type;

(5) the anticipated completion date of such project;

(6) for the developer, contractors and subcontractors for such project:

(i) the name and address;

(ii) the name and title of each principal officer and principal owner of such developer, contractor or subcontractor and

(iii) when applicable, whether the wage information described by subdivision a of section 26-904 of this chapter has been provided to the department for such developer, contractor or subcontractor;

(7) whether the developer was prequalified at the time of selection;

(8) the method used to select the developer including, but not limited to, direct negotiation, request for proposals, competitive bidding, public bidding, auction, selection by entities other than the department, and application;

(9) the criteria used to evaluate potential developers and to select the developer;

(10) whether the developer or contractor executed any legal documents subjecting any of the project work to section 220 of the New York state labor law;

(11) whether the developer or contractor executed any legal documents subjecting any of the project work to subchapter IV of chapter thirty-one of part A of subtitle II of title 40 of the United States Code or any applicable regulations or rules;

(12) To the extent known to the department, based on information reported to the department by the developer that the department reasonably believes to be correct and complete, a description of the final outcome of any judicial actions or proceedings, including any final judgment rendered or settlement, with respect to section 220 of the New York state labor law or subchapter IV of chapter thirty-one of part A of subtitle II of title 40 of the United States code or any applicable regulations or rules, within the five-year period immediately preceding developer selection by the department, against the developer, the current principal

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owner or principal officer thereof, or the former principal owner or principal officer thereof if such person held such position or status within the five-year period immediately preceding developer selection by the department;

(13) the completion date of the project; and

(14) the total number of construction conditions and for each such condition, the nature of the condition and a description of any remedial actions taken, ordered or requested with respect to such condition.

b. For housing development projects where the developer was selected after the effective date of this chapter, the department shall update the information required by subdivision a of this section every six months until completion of such project except that the information required by paragraph fourteen shall be updated every six months until five years after completion of such project.

c. For housing development projects where the developer was selected prior to the effective date of this chapter, the department shall make available the information required by subdivision a of this section no later than January 1, 2014 and shall update such information every six months thereafter until completion of such project except that:

(1) the information required by paragraph six for subcontractors shall be limited to subcontractors that entered into a contract or other agreement with or were otherwise engaged by a contractor or the department; and

(2) the information required by paragraph fourteen shall be updated every six months until five years after completion of such project.

§ 26-904 Wage information reporting. For all housing development projects where the developer of such project was selected after the effective date of this chapter, each such developer shall report to the department the information listed below at least quarterly:

a. for each individual employed or otherwise engaged to perform project work by the developer or any covered contractor:

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(1) the individual's job title, position, or a description of the type of work performed by such person;

(2) the information described by subdivision three of section 195 of the New York state labor law which includes the name of the individual; the name of the employer; the address and phone number of the employer; the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise; gross wages; deductions; allowances, if any, claimed as part of the minimum wage and net wages;

b. for each contractor or subcontractor that is not a covered contractor, a written certification under oath by a principal officer of such contractor or subcontractor that such contractor or subcontractor is not a covered contractor.

§ 26-905 Ineligibility for inclusion on prequalified lists.

a. In addition to any other penalty provided by law, any contractor or subcontractor who fails to provide wage reporting information in accordance with section 26-904 of this chapter shall be ineligible to be included on a prequalified list of contractors and subcontractors.

b. In addition to any other penalty provided by law, any contractor or subcontractor with a history of construction conditions, as determined by the department, shall be ineligible to be included on a prequalified list of contractors and subcontractors.

§2. This local law shall take effect on January 1, 2013, except that the commissioner of housing preservation and development shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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