



Legislation Details (With Text)

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Title: Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation that amends the Padavan law to provide meaningful guidance on what would be considered such a concentration of community residential facilities that the nature and character of an area would be substantially altered.

Sponsors: Peter F. Vallone, Jr., Leroy G. Comrie, Jr., Lewis A. Fidler, James F. Gennaro, Vincent J. Gentile, Peter A. Koo, Michael C. Nelson, Deborah L. Rose, Eric A. Ulrich

Indexes:

Attachments:

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Res. No. 1723

Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation that amends the Padavan law to provide meaningful guidance on what would be considered such a concentration of community residential facilities that the nature and character of an area would be substantially altered.

By Council Members Vallone, Comrie, Fidler, Gennaro, Gentile, Koo, Nelson, Rose and Ulrich

Whereas, In the 1970s various mental health experts began to blame the deplorable conditions at New York State institutions for the mentally disabled on the large size of such institutions and to recommend that residents of such institutions be moved to community-based residential facilities; and

Whereas, The effort to move residents of State institutions to community residences was hobbled by opposition from municipalities that had concerns about the effect the new community residences would have on localities; and

Whereas, To address this issue, New York State passed the Padavan law, which set mandatory procedures for the establishment of community residences for the mentally disabled; and

Whereas, Under the Padavan law, when a sponsoring agency wishes to establish a community residence it must send a written notification to the chief executive officer of the targeted municipality, including the proposed location of the community residence and a listing of all community residences and institutions located in the surrounding area; and

Whereas, Within forty days of receipt of the notification, the municipality must either approve the site recommended by the sponsoring agency, suggest a more suitable site within its jurisdiction, or object to the establishment of the facility because it would result in such a concentration of community residential facilities that the nature and character of the area would be substantially altered; and

Whereas, The Padavan law does not specify what would be considered an over-concentration of community residences that would qualify as substantially altering the “nature and character” of an area; and

Whereas, Since the Padavan law was enacted, no community has ever succeeded on a challenge to the proposed siting of a community residential facility; and

Whereas, When interpreting the Padavan law, courts have ruled that over-concentration is not enough, and that the dispositive inquiry is how the nature and character of an area would be changed by the establishment of the proposed facility; and

Whereas, Case law suggests that lowered home values and the loss of real property tax revenues do not amount to a substantial alteration of the nature and character of an area, but provides no guidance on what would be considered a substantial alteration; and

Whereas, The Padavan law has led to some communities having a high concentration of community residential facilities and some having none at all; and

Whereas, To be meaningful, the Padavan law should offer more specific standards for determining when the nature and character of a community would be substantially altered by the addition of a community

residence; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign legislation that amends the Padavan law to provide meaningful guidance on what would be considered such a concentration of community residential facilities that the nature and character of an area would be substantially altered.

JW
LS# 4410
3/27/13