Legislation Details (With Text)

File #:	Int 1182-2016 **Version:** A	**Name:**	Removing deed restrictions placed on city properties when they are sold or otherwise disposed of.
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Governmental Operations
On agenda:	5/25/2016		
Enactment date:	12/22/2016	**Enactment #:**	2016/176

Title: A Local Law to amend the administrative code of the city of New York, in relation to modification and removal of certain deed restrictions

Sponsors: Margaret S. Chin, Rosie Mendez, Mark Levine, Brad S. Lander, Ben Kallos, Vincent J. Gentile, Helen K. Rosenthal, Paul A. Vallone, Carlos Menchaca, Elizabeth S. Crowley, Stephen T. Levin, Inez D. Barron, Joseph C. Borelli, (by request of the Manhattan Borough President)

Indexes:

Attachments: 1. Legislative History Report, 2. Summary of Int. No. 1182-A, 3. Summary of Int. No. 1182, 4. Int. No. 1182 - 5/25/16, 5. May 25, 2016 - Stated Meeting Agenda with Links to Files, 6. Committee Report 9/29/16, 7. Hearing Testimony 9/29/16, 8. Hearing Transcript 9/29/16, 9. Proposed Int. No. 1182-A - 12/5/16, 10. Committee Report 12/5/16, 11. Hearing Transcript 12/5/16, 12. Committee Report - Stated Meeting, 13. December 6, 2016 - Stated Meeting Agenda with Links to Files, 14. Int. No. 1182-A (FINAL), 15. Fiscal Impact Statement, 16. Mayor's Letter, 17. Hearing Transcript - Stated Meeting 12-6-16, 18. Local Law 176, 19. Minutes of the Stated Meeting - December 6, 2016

Date	Ver.	Action By	Action	Result
5/25/2016	*	City Council	Introduced by Council	
5/25/2016	*	City Council	Referred to Comm by Council	
9/29/2016	*	Committee on Governmental Operations	Hearing Held by Committee	
9/29/2016	*	Committee on Oversight and Investigations	Hearing Held by Committee	
9/29/2016	*	Committee on Governmental Operations	Laid Over by Committee	
9/29/2016	*	Committee on Oversight and Investigations	Laid Over by Committee	
12/5/2016	*	Committee on Governmental Operations	Hearing Held by Committee	
12/5/2016	*	Committee on Governmental Operations	Amendment Proposed by Comm	
12/5/2016	*	Committee on Governmental Operations	Amended by Committee	
12/5/2016	A	Committee on Governmental Operations	Approved by Committee	Pass
12/6/2016	A	City Council	Approved by Council	Pass
12/6/2016	A	City Council	Sent to Mayor by Council	
12/20/2016	A	Mayor	Hearing Held by Mayor	
12/22/2016	A	Mayor	Signed Into Law by Mayor	
12/22/2016	A	City Council	Recved from Mayor by Council	

powered by Legistar™

Int. No. 1182-A

By Council Members Chin, Mendez, Levine, Lander, Kallos, Gentile, Rosenthal, Vallone, Menchaca, Crowley, Levin, Barron and Borelli (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to modification and removal of certain deed restrictions

Be it enacted by the Council as follows:

Section 1. Title 25 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8
DEED RESTRICTIONS

§ 25-801 Definitions
§ 25-802 Standard
§ 25-803 Process
§ 25-804 Review of requests
§ 25-805 Mayoral approval

§ 25-801 Definitions. For the purposes of this chapter, the following terms have the following meanings:

Commissioner. The term "commissioner" means the commissioner of citywide administrative services.

Deed restriction. The term "deed restriction" means a covenant set forth in a deed, lease that is for a term of 49 years or longer, or easement that limits the use of property located in the city and is imposed by the city when such property is sold or otherwise disposed of by the city.

Department. The term "department" means the department of citywide administrative services.

§ 25-802 Standard. a. A request for modification or removal of a deed restriction submitted to the department shall be reviewed in accordance with the procedures set forth in this chapter. Such request shall only be approved upon a determination that the proposed modification or removal is appropriate and furthers the best interests of the city. In reaching such a determination, the following factors, at a minimum, shall be considered:

i. the potential effect of a requested removal or modification of a deed restriction on the community in which the property is located and the city generally;

ii. whether modifying or removing such deed restriction could allow the property to serve alternate purposes beneficial to the community or city as a whole;

iii. if such modification or removal could result in the closing of a facility providing services in the community or a reduction in such services and the impact of any such closure or reduction; and

iv. the potential impact of such modification or removal on, at a minimum, the following: the provision of open spaces; the character of certain designated areas of historic and architectural interests; the availability of space for educational, religious, recreational, health, and similar community-based facilities that serve community residents; the availability of local retail businesses; the availability of affordable housing in the community; economic development; and investments in infrastructure.

b. Changes. The department shall not modify or remove any deed restriction without the approval of the mayor, or the mayor's designee, pursuant to section 3-119.

§ 25-803 Process. a. Intake package. A property owner requesting that the department modify or remove a deed restriction must submit to the department an intake package consisting of:

1. A request form provided by the department, which must include:

i. the property owner's name;

ii. the address and any commonly known name of the property;

iii. the reason for the request;

iv. a description of any proposed development or sale of the property to a third party;

v. a description of the use of the property since the property owner's purchase;

vi. the date by which the property owner seeks to have the requested modification or removal take effect;

vii. any other federal, state, or local governmental actions taken, pending, or necessary for such modification or removal; and

viii. any other information required by the commissioner.

powered by Legistar™

2. A copy of the current deed of ownership and any other document containing the deed restriction;

3. Verified statement and tax affidavit (VSTA) forms, provided by the department, disclosing real property owned and any outstanding real property taxes, water and sewer charges, assessments, and/or other municipal charges, including interest on any of the aforementioned amounts;

4. If the property owner is a corporation, limited liability company, or partnership:

i. a list identifying the names of any individuals whose share of ownership in the corporation, limited liability company, or partnership is 20 percent or more; and

ii. a certificate of good standing issued by the state or the equivalent of such certificate issued by another state; and

5. A federal or state tax identification number.

b. The property owner shall promptly report to the department any changes in the information provided in the intake package that occur after the intake package is submitted and while the request is pending.

§ 25-804 Review of requests. a. Preliminary review. Following the submission of an intake package pursuant to subdivision a of section 25-803, the department shall conduct a preliminary review of a request that the department modify or remove a deed restriction.

1. Upon receipt of the intake package required pursuant to subdivision a of section 25-803, the department shall notify the property owner in writing that the request for modification or removal is under review.

2. At the time the property owner is notified in writing that the request for modification or removal is under review pursuant to paragraph 1 of this subdivision, the department shall send notice of such review, along with the intake package for such request submitted pursuant to subdivision a of section 25-803, by mail and electronic mail to the community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located.

3. The department shall perform a land use analysis, which shall include a description of the history of the use of the property, the deed restriction that is the subject of the request, the land use implications of such deed restriction, and an analysis of whether such modification or removal furthers the best interests of the city pursuant to the factors set forth in subdivision a of section 25-802. The department of city planning shall assist the department in such analysis by providing information concerning the zoning and land use of the property and surrounding area, including urban design characteristics, public transit access, any existing and planned land use policies and initiatives, and any prior land use actions affecting the property. Notwithstanding any provision of this chapter to the contrary, if the department determines that such modification or removal does not further the best interests of the city, the department shall take no further action on such request and shall inform the property owner, community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located of such determination.

4. The department shall conduct a due diligence review to determine whether there are outstanding obligations owed to the city in connection with the properties identified in the VSTA forms, or by the current property owner or any proposed property owner, which shall include but not be limited to review of the following information related to such properties, current property owner, or any proposed property owner:

i. the intake package;

ii. information requested from other city agencies, including, but not limited to, the department of buildings and the department of finance; and

iii. information obtained through a search of public databases.

b. Appraisal. 1. The department shall appraise the market value of the property with and without the deed restriction based on two appraisals, at least one of which must be performed by an independent real estate appraiser licensed in the state who is not an employee of the department. The appraisals shall be performed within 60 days prior to the date the department submits its preliminary recommendation to the committee

powered by Legistar™

established pursuant to section 3-119 and within 180 days prior to the date the department submits its final written recommendation to the mayor pursuant to section 3-119.

2. The property owner shall pay an appraisal fee equivalent to the cost of the independent appraisal. The department may waive or modify such fee if it determines, based on a showing made by the property owner, that the payment of such fee would impose an unreasonable hardship on the property owner.

3. The method of calculation of any consideration to be proposed in connection with the modification or removal of the deed restriction shall be determined by the department in consultation with relevant city agencies and experts, including, but not limited to, the law department. Such method shall take into account the market value of the property with and without the deed restriction.

4. Based on the appraisals and in accordance with the calculation method determined pursuant to paragraph 3 of this subdivision, the department shall propose a consideration amount, if any, that would be required for the modification or removal of the deed restriction, and shall include the department's reasoning for proposing such consideration amount.

5. Notwithstanding paragraph 1 of this subdivision, appraisals shall not be required if:

i. a deed restriction would be imposed in lieu of the deed restriction that is the subject of the request for removal or modification, and the department determines that the deed restriction to be imposed is of substantially equivalent value to the deed restriction to be removed or modified;

ii. the consideration amount for the modification or removal of the deed restriction is set forth in a legally binding written agreement between the city and the property owner executed at the time the deed restriction was imposed; or

iii. the department determines that appraisals are not necessary as an environmental restriction that was imposed on a property by a regulatory agency is removed upon a subsequent determination by such agency that such restriction is no

longer necessary, or when a deed restriction has become detrimental to the city's interest.

6. If the department determines that an appraisal is not required pursuant to paragraph 5 of this subdivision, the department shall prepare a written summary of its reasons for reaching such determination.

c. Consultation and notice. 1. Following the preliminary review and performance of any appraisals, the department shall consult with other city, state, or federal agencies as appropriate, including, but not limited to, the department of housing preservation and development, the department of city planning, the department of small business services, and any agency involved in providing services at the property, to obtain information about the public benefit related to the deed restriction, assess possible alternative uses of the property, and identify potential issues of concern with the proposed modification or removal.

2. Following such consultation, the department shall prepare a summary of findings based on the land use analysis, due diligence review, consultation conducted pursuant to this section, and, if applicable, its determination pursuant to paragraph 4 or 6 of subdivision b of this section.

3. No later than three business days after such summary is completed and at least 60 days prior to any modification or removal of such deed restriction, the department shall post online and send notice of the proposed modification or removal as set forth in this paragraph. Such notice shall identify the property by its address and any commonly known name and include the summary prepared pursuant to paragraph 2 of this subdivision and shall be sent by mail and electronic mail to the community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located. Such notice shall be titled in large bold letters "Notice of Removal or Modification of Deed Restriction on Real Property."

d. Uniform land use review procedure. 1. The department, in consultation with the law department, shall establish a process for determining whether a proposed modification or removal is subject to the uniform land use review procedure set forth in section 197-c of the charter.

2. If, pursuant to such process, the department determines that a proposed modification or removal is

subject to the uniform land use review procedure set forth in section 197-c of the charter, the department shall prepare an application for such modification or removal to be reviewed pursuant to such procedure. Any request for modification or removal that is subject to the uniform land use review procedure shall not be approved unless the application for such modification or removal submitted in accordance with section 197-c of the charter is approved pursuant to chapter 8 of the charter.

e. Public hearing. 1. The department shall conduct at least one public hearing on such requested modification or removal pursuant to the procedures set forth in this subdivision. A public hearing shall occur at least 45 days but no more than 120 days prior to such removal or modification.

2. The department shall publish a public notice of any hearing online and in the city record for at least seven consecutive business days commencing at least 30 days and no more than 40 days before any such hearing.

3. The department shall send notice of any hearing by mail and electronic mail to the community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located.

4. Any public hearing shall be held in the community district in which the property is located.

5. A public file containing copies of the calendar document and other public documents, including the summary prepared pursuant to paragraph 2 of subdivision c of this section, shall be posted online and sent to the community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located no later than 20 days before any hearing.

6. The department shall prepare and post online a summary of public comments received at any such hearing, along with responses to such comments, on the request for modification or removal of the deed restriction.

f. Committee review. 1. If, based on the information obtained pursuant to this section, the department

powered by Legistar™

finds that the requested modification or removal of a deed restriction is appropriate and furthers the best interests of the city, the department shall submit a preliminary recommendation to approve the request to the committee established pursuant to section 3-119. Such preliminary recommendation shall include any proposed consideration amount and shall be accompanied by the materials required pursuant to pursuant to section 3-119.

2. If the committee approves the department's preliminary recommendation, within three business days of such approval, the department shall issue a letter to the property owner setting forth such recommendation; any required consideration, as approved or modified by the committee; and any further actions the property owner must take to obtain the requested modification or removal of the deed restriction, which shall include, but not be limited to, the property owner's agreement in writing to take the steps necessary to obtain the requested modification or removal. If the property owner does not respond to such letter within 30 calendar days after the receipt of such letter, the department shall cease any further action with regard to the requested modification or removal until a response is received; provided, however, if a property owner fails to respond or fails to request more time to respond within 60 days following receipt of such letter, the department shall treat such response as a new request.

§ 25-805 Mayoral approval. Following the receipt of the committee's determination pursuant to section 3-119 and any approval required pursuant to chapter 8 of the charter, the department shall determine whether the requested modification or removal of a deed restriction is appropriate and furthers the best interests of the city. If the department determines that such modification or removal is appropriate and furthers the best interests of the city, it shall submit to the mayor a final written recommendation for approval of such request. Such written recommendation shall include the intake package submitted pursuant to subdivision a of section 25-803, any appraisals conducted pursuant to subdivision b of section 25-804, the summary prepared pursuant to paragraph 2 of subdivision c of section 25-804, the summary of public comments prepared pursuant to paragraph 6 of subdivision e of section 25-804, any and all agreements with the property owner pursuant to paragraph 2 of subdivision f of section 25-804, and any other documents or information the department deems

relevant.

§ 2. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-119 to read as follows:

§ 3-119 Modification or removal of deed restrictions. a. Definitions. For the purposes of this section, the term "deed restriction" means a covenant set forth in a deed, lease that is for a term of 49 years or longer, or easement that limits the use of property located within the city and is imposed by the city when such property is sold or otherwise disposed of by the city.

b. Approval. 1. The department of citywide administrative services shall not modify or remove any deed restriction without the approval of the mayor pursuant to this section.

2. The department of housing preservation and development shall not modify or remove any deed restriction without the approval of the mayor or the deputy mayor for housing and economic development or the official occupying any successor position, or his or her designee.

c. Committee. 1. There shall be a committee to review preliminary recommendations by the department of citywide administrative services to modify or remove deed restrictions. The committee shall consist of four members, who shall be:

i. the first deputy mayor or the official occupying any successor position, or their designee;

ii. the deputy mayor for housing and economic development or the official occupying any successor position, or their designee;

iii. the corporation counsel, or their designee; and

iv. the director of the office of management and budget, or their designee.

2. Such committee shall review the preliminary recommendation and accompanying materials submitted by the department of citywide administrative services and determine whether to approve such recommendation. In reaching such determination, the committee shall consider whether approval furthers the best interests of the

city, pursuant to the factors set forth in subdivision a of section 25-802.

3. (a) The committee shall issue a written determination of its approval or denial of the department of citywide administrative services' preliminary recommendation, including the committee's determination to approve or modify the consideration amount required, if any, for the modification or removal of the deed restriction, as proposed by the department, and the reasons for reaching such determinations. Any modification of the consideration amount by the committee shall be based on the appraisals provided by the department and in accordance with the calculation method developed by the department pursuant to subdivision b of section 25-804.

(b) Within three business days of reaching such a determination, the committee shall post online and send notice of such determination by mail and electronic mail to the department of citywide administrative services, community board for the community district in which the property is located, council member representing the council district in which the property is located, and borough president representing the borough in which the property is located.

(c) The committee may modify its determination in the event that updated appraisals are provided to the committee after the department submits its preliminary recommendation.

d. Mayoral approval. 1. Following the receipt of the department of citywide administrative services' final written recommendation for approval of a request to modify or remove a deed restriction submitted pursuant to section 25-805, the mayor, or the mayor's designee, shall approve or deny such request. Such request shall only be approved upon a determination by the mayor that the proposed modification or removal is appropriate and furthers the best interests of the city.

2. Within three business days of reaching a determination of approval or denial of such request, the mayor shall post notice of such determination online and send notice of such determination by mail and electronic mail to the department of citywide administrative services, community board for the community district in which the property is located, council member representing the council district in which the property

is located, and borough president representing the borough in which the property is located.

e. Database of properties. 1. The mayor or an agency or officer designated by the mayor shall maintain a searchable electronic database of all real property upon which a deed restriction was imposed on or after 1966 by the department of citywide administrative services and all requests for modification or removal of such deed restrictions made pursuant to the procedures set forth in chapter 8 of title 25. Data shall be added to such database as set forth in paragraph 2 of this subdivision and updates to such data shall be made not less than 30 days following any change to such data. Such database shall be posted on the city's website, shall have the ability to produce reports by query, and shall be published to the city's open data portal in a non-proprietary format that permits automated processing and shall include, but not be limited to, the following information:

i. The location of the property including the borough, community board district, block and lot number, and any commonly known name;

ii. The name and address of the person or entity to whom the property was disposed;

iii. A description of all restrictions contained in the deed to the property;

iv. A copy of or electronic link to the deed, lease that is for a term of 49 years or longer, or easement containing such restriction;

v. Information on requests for the modification or removal of a deed restriction made pursuant to the procedures set forth in chapter 8 of title 25, including, but not limited to, all information required to be posted online by the department for citywide administrative services pursuant to such section; and

vi. Any other information deemed relevant by the mayor or the agency or officer designated by the mayor to maintain such database.

2. Such database shall contain all real property upon which a deed restriction was imposed by the department of citywide administrative services on or after January 1, 2006. No later than one year following the effective date of this local law, such database shall contain all real property upon which a deed restriction was imposed by the department of citywide administrative services on or after January 1, 1996. No later than two

years following the effective date of this local law, such database shall contain all real property upon which a deed restriction was imposed by the department of citywide administrative services on or after January 1, 1986. No later than three years following the effective date of this local law, such database shall contain all real property upon which a deed restriction was imposed by the department of citywide administrative services on or after January 1, 1976. No later than four years following the effective date of this local law, such database shall contain all real property upon which a deed restriction was imposed by the department of citywide administrative services on or after January 1, 1966.

§ 3. This local law takes effect immediately, except that subdivision e of section 3-119 of the administrative code of the city of New York, as added by section two of this local law, takes effect one year after it becomes law; provided, however, that the department of citywide administrative services and the mayor or agency or officer designated by the mayor as set forth in section two of this local law may take all actions necessary for the implementation of this local law, including the promulgation of rules, prior to such effective date.

JL/SMD/KET 11/28/16 10:36PM
LS #7374