



Legislation Text

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By Council Members Brewer, Hanif, Sanchez, Nurse, Louis, Restler, Hudson, Joseph, Avilés, Schulman, De La Rosa, Fariás, Riley, Gutiérrez, Abreu, Cabán, Won, Narcisse, Ayala, Krishnan, Ossé, Menin, Bottcher, Stevens, Powers, Marte, Brannan, Rivera, Richardson Jordan, Barron and Feliz (in conjunction with the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to creating a land bank

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 9 to read as follows:

CHAPTER 9

NEW YORK CITY LAND CORPORATION

§ 25-901 Definitions.

§ 25-902 Land corporation established; purpose.

§ 25-903 Members.

§ 25-904 Incorporators; board of directors.

§ 25-905 Disposition of real property.

§ 25-906 Review by urban development corporation; incorporation; adoption of initial bylaws.

§ 25-907 Appendix A; Initial Certificate of Incorporation of New York City Land Corporation.

§ 25-908 Appendix B; Initial Bylaws of the New York City Land Corporation.

§ 25-901 Definitions. For the purposes of this chapter, the following terms have the following meanings:

Affordable housing unit. The term “affordable housing unit” means a dwelling unit that (i) is or will be permanently restricted by a restrictive covenant, possibility of reverter or other similar deed restriction or by an agreement made with or approved and enforceable by the land corporation, to occupancy by households whose

incomes at the time of initial occupancy do not exceed a certain amount, provided that such amount does not exceed 80 percent of the area median income, and (ii) contains floor area equal to or greater than the average non-affordable unit floor area for the zoning lot containing the dwelling unit.

Area median income. The term “area median income” means the New York city metropolitan area median income, adjusted for family size, as determined by the United States department of housing and urban development.

Average non-affordable unit floor area. The term “average non-affordable unit floor area” means the number obtained for a particular zoning lot by dividing the total floor area contained within dwelling units, other than affordable housing units, by the total number of dwelling units, other than affordable housing units.

Director. The term “director” has the same meaning as in section 102(a)(6) of the not-for-profit corporation law. For the purposes of this chapter, “director” refers to directors of the land corporation.

Dwelling unit. The term “dwelling unit” has the same meaning as in paragraph 13 of subdivision a of section 27-2004.

Floor area. The term “floor area” has the same meaning as in section 12-10 of the New York city zoning resolution.

Household. The term “household” means, prior to initial occupancy of an affordable housing unit, all of the persons intending to occupy the affordable housing unit at initial occupancy. After initial occupancy of an affordable housing unit, household means all of the persons occupying the affordable housing unit.

Incorporator. The term “incorporator” means the person identified in subdivision a of section 25-904.

Initial occupancy. The term “initial occupancy” means the first date upon which a particular household lawfully occupies a particular affordable housing unit.

Land corporation. The term “land corporation” means the New York city land corporation established under this chapter.

Member. The term “member” has the same meaning as in section 102(a)(9) of the not-for-profit corporation law. For the purposes of this chapter, the term “member” refers to members of the land corporation.

Real property. The term “real property” has the same meaning as in section 1602(f) of the not-for-profit corporation law.

Zoning lot. The term “zoning lot” has the same meaning as in section 12-10 of the New York city zoning resolution.

§ 25-902 Land corporation established; purpose. a. There is hereby created a “New York City land corporation,” which shall be a charitable not-for-profit corporation and, upon approval of this chapter by the urban development corporation under subdivision (g) of section 1603 of the not-for-profit corporation law, a land bank under article 16 of the not-for-profit corporation law.

b. The purpose of the land corporation shall be to fulfill the purposes of, and perform the functions of, a land bank organized under article 16 of the not-for-profit corporation law; to efficiently acquire, warehouse and transfer real property to expedite the development, rehabilitation and preservation of affordable housing; and to encourage property uses that best serve the interests of the community but which are not sufficiently provided for by the free market, including industrial, manufacturing and maritime activities; fresh food stores; public and open spaces; and wildlife conservation areas.

§ 25-903 Members. The mayor and the speaker of the council shall be the members of the land corporation.

§ 25-904 Incorporators; board of directors. a. The following persons shall serve as the incorporators of the land corporation and shall serve as the initial directors until new directors are appointed under subdivision b of this section:

1. The president and chief executive officer of the New York city economic development corporation;
2. The commissioner of housing preservation and development;
3. The chair of the city planning commission; and

4. Two designees of the speaker of the council.

b. No later than three months after the filing of the certificate of incorporation of the land corporation under subdivision b of section 25-906, the mayor shall appoint a number of directors equal to one-half the total number of directors, rounded up to the nearest whole number, and the speaker of the council shall appoint a number of directors equal to one-half the total number of directors, rounded down to the nearest whole number.

c. A person may not serve or continue serving as a director unless such person (i) has appropriate experience in real estate, finance, property management, community planning and development, organized community-based activities or other relevant field of endeavor; and (ii) is a resident of the city throughout his or her service on the board of directors.

d. Unless otherwise provided in the bylaws of the land corporation, the total number of directors, other than initial directors, shall be 11.

§ 25-905 Disposition of real property. a. Except as otherwise provided in subdivision b of this section, the land corporation may only convey, lease as lessor or otherwise dispose of real property for one or more of the following:

1. Uses that would result in the creation or preservation of affordable housing units;

2. If the property to be disposed of is located in an industrial business zone established under section 22-626, uses related to industrial, manufacturing or maritime activities;

3. If the property to be disposed of is located within a FRESH food store designated area, as described in section 63-02 of the New York city zoning resolution, use as a FRESH food store, as defined by section 63-01 of the New York city zoning resolution;

4. Use as a public space or place; or

5. Use as a wildlife conservation area.

b. The land corporation may convey, lease as lessor or otherwise dispose of property for a use other than a use described in subdivision a of this section only if:

1. No less than 180 days and no more than one year before the disposition, the land corporation holds a public hearing, solicits public comments with respect to the disposition and considers the results of such public hearing and comments;

2. No more than 90 days after the public hearing described in paragraph 1 of this subdivision, the land corporation finds that the disposition will best serve the interests of the community and prepares and makes publicly available online a report, signed by at least two-thirds of the directors, setting forth all information supporting the finding including:

(a) All benefits that the disposition will provide for the community;

(b) All negative impacts that the disposition will have on the community;

(c) A description of each public comment received and how the comment has been or will be addressed;

and

(d) How the disposition will better serve the community than the disposition for a use described in subdivision a;

3. No more than 60 days and no less than 30 days after publication of the report described in paragraph 2 of this subdivision, the land corporation holds a public hearing with respect to the report, solicits public comment and considers the results of the public hearing and comments;

4. No more than 20 days after the public hearing described in paragraph 3 of this subdivision, at least two-thirds of the directors vote to approve the disposition; and

5. No more than seven days after the disposition, the land corporation prepares and makes publicly available online the following information, in addition to the information required by subdivision (b) of section 1609 of the not-for-profit corporation law:

(a) The address of the property disposed of;

(b) The name, address and telephone number of the person to whom the property was conveyed, leased or otherwise disposed of; and

(c) The proposed use of the property.

c. When conveying, leasing as lessor or otherwise disposing of real property for a use that would result in the creation or preservation of affordable housing units, the land corporation shall prioritize disposition to a community land trust, as defined by section 12773(b) of title 42 of the United States code, a community housing development organization, as defined by section 12704(6) of title 42 of the United States code, or a nonprofit organization, as defined by section 12704(5) of title 42 of the United States code, and shall prioritize disposition for a proposed use that will maximize the number of affordable housing units at the zoning lot containing the property and the affordability of such units.

d. When conveying, leasing as lessor or otherwise disposing of real property, the land corporation shall prioritize disposition for a proposed use that will maximize the creation of prevailing wage jobs pursuant to the bylaws of the land corporation.

§ 25-906 Review by urban development corporation; incorporation; adoption of initial bylaws. a. No later than 30 days after the effective date of the local law that added this chapter, the mayor shall amend the certificate of incorporation for the land corporation, as set forth in section 25-907, to include the names and addresses of the initial directors identified in subdivision a of section 25-904 and shall prepare and forward the following information to the urban development corporation for review and approval under subdivision (g) of section 1603 of the not-for-profit corporation law:

1. A copy of the local law that added this chapter, amended as provided in this subdivision; and
2. All other materials and information required by the urban development corporation.

b. No later than 30 days after approval of this chapter by the urban development corporation under subdivision (g) of section 1603 of the not-for-profit corporation law, the incorporators shall execute the certificate of incorporation for the land corporation, as provided in section 25-907 and amended under subdivision a of this section, and file the amended certificate with the department of state in accordance with article 1 of the not-for-profit corporation law.

c. No later than 30 days after filing the amended certificate under subdivision b of this section, the directors shall adopt the bylaws provided in section 25-908 as the initial bylaws for the land corporation.

§ 25-907 Appendix A; Initial Certificate of Incorporation of New York City Land Corporation.

CERTIFICATE OF INCORPORATION
OF
NEW YORK CITY LAND CORPORATION
(Under section 402 of the Not-for-Profit Corporation Law)

1. Name. The name of the corporation is NEW YORK CITY LAND CORPORATION (hereafter referred to as the Corporation).

2. Type of Corporation. The Corporation is a “corporation” as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law and is a charitable corporation under Section 201 of said law. The Corporation is also a “land bank” pursuant to Section 1602 of the Not-for-Profit Corporation Law.

3. Purposes. The Corporation is formed for the following purposes and to achieve the following lawful public or quasi-public objectives:

a. To perform the functions and fulfill the purposes of a land bank as described in Article 16 of the Not-for-Profit Corporation Law;

b. To efficiently acquire and transfer properties to expedite the development, rehabilitation and preservation of affordable housing and to encourage property uses that best serve the interests of the community but which are not sufficiently provided for by the free market, which uses include industrial, manufacturing, and maritime activities; fresh food stores; public and open spaces; and wildlife conservation areas;

c. To conduct regular inventories of vacant properties and provide the public with efficient access to a listing of these inventories;

d. To aggregate and responsibly hold properties for future productive use;

e. To eliminate blight by the removal of barriers to returning vacant properties to productive use;

f. To effectively market and strategically convey, lease as lessor or otherwise dispose of properties of the Corporation; and

g. Notwithstanding any other provision of this Certificate, the Corporation is organized exclusively for charitable, educational, and nonprofit purposes, and not for pecuniary or financial gain, as specified in Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future tax code.

4. Powers. In furtherance of the purposes and objectives set forth in Article 3, the Corporation shall have all of the powers now or hereafter set forth in Sections 202 and 1607 of the Not-for-Profit Corporation Law and any other applicable law except as limited herein.

5. Office. The office of the Corporation is to be located in the County of New York, State of New York.

6. Registered Agent. The Secretary of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The Secretary of State shall mail a copy of any process against the Corporation served upon the Secretary of State as agent of the Corporation to the Mayor of the City of New York at City Hall, New York City, New York 10007.

7. The corporation is formed to engage in an activity or for a purpose requiring consent or approval of a state official, department, board, agency or other body. Such consent or approval is attached.

8. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code. The following language relates to the corporation's tax exempt status and is not a statement of purposes and powers. Consequently, this language does not expand or alter the corporation's purposes or powers set forth in paragraphs THIRD or FOURTH.

§ 25-908 Appendix B; Initial Bylaws of the New York City Land Corporation. The initial bylaws of the land corporation shall read as follows:

BYLAWS
OF
NEW YORK CITY LAND CORPORATION

1. Members. a. The members of the New York City Land Corporation (hereafter referred to as the Corporation) shall be the Mayor of the City of New York (Mayor) and the Speaker of the Council of the City of New York (Speaker), pursuant to Section 25-903 of the Administrative Code of the City of New York.

b. Annual meeting. The first annual meeting of the members shall, pursuant to Subdivision b of Section 25-904 of the Administrative Code of the City of New York, be held within three months of the date on which the Corporation's Certificate of Incorporation (hereafter referred to as the Certificate) is filed with the Department of State. Annual meetings shall be held each year thereafter on the anniversary date of such filing except that if such anniversary date falls on a Saturday, Sunday, or holiday, the annual meeting shall be held on the first business day occurring thereafter.

2. Directors. a. The powers of the Corporation shall be exercised by a board of directors.

b. Number of directors. The Corporation shall have five (5) initial directors and thereafter shall have eleven (11) directors.

c. Appointment. The directors, other than the initial directors, shall be appointed by the Mayor and the Speaker pursuant to Subdivision b of Section 25-904 of the Administrative Code of the City of New York. Two of the directors appointed by the Mayor and two of the directors appointed by the Speaker shall be employees, members or directors of entities that are (i) not-for-profit corporations, advocacy organizations, civic

associations, community-based organizations or other similar entities and (ii) working in the field of housing, planning or community development.

d. Term. Each director shall serve a term of two years.

3. Amendments to Certificate of Incorporation or Bylaws; Selling Substantially All Assets. The board of directors may amend the Certificate and these Bylaws without the approval of the members, except that approval of all of the members shall be required for any proposed amendment to Article 1, 2, 3 or 4 of these Bylaws. In the event that the Corporation undertakes to sell or otherwise dispose of substantially all of its assets, such action must be approved by the members in accordance with Section 510 of the Not-for-Profit Corporation Law.

4. Encouraging the creation of prevailing wage jobs. a. Except as provided in Subdivision e of this Article, the Corporation may only convey, lease as lessor or otherwise dispose of real property for use as a prevailing wage property.

b. For the purposes of this Article, the term “prevailing wage property” means real property where, pursuant to a restrictive covenant, possibility of reverter or other similar deed restriction for the property or an agreement made with or approved and enforceable by the Corporation, all natural persons performing work of any kind, other than construction work, at the property for a covered owner or occupant of the property, including work of any kind, other than construction work, performed at the property pursuant to an agreement made between such covered owner or occupant and a third party, are paid no less than the prevailing wage.

c. (i) For the purposes of this Article, a “covered owner or occupant” means an owner or occupant of real property, other than real property in which more than seventy-five percent (75%) of the floor area is comprised of affordable housing units, as such terms are defined by Section 25-901 of the Administrative Code of the City of New York; provided, however, that such affordable housing units may be permanently affordable to households whose incomes at the time of initial occupancy do not exceed one hundred twenty-five percent (125%) of the area median income, as such terms are defined by Section 25-901 of the Administrative Code of the City of New York.

(ii) Notwithstanding Paragraph i of this Subdivision, the term “covered owner or occupant” shall not include an owner or occupant that:

(A) Has annual gross revenues of less than five million dollars (\$5,000,000.00) when such revenues are aggregated with the revenues of each parent entity of such owner or occupant, each subsidiary entity of such owner or occupant and each entity owned or controlled by a parent entity of such owner or occupant;

(B) Is a not-for-profit corporation, as defined by Paragraph 10 of Subdivision a of Section 102 of the Not-For-Profit Corporation Law;

(C) Is using the property primarily for industrial, manufacturing or maritime activities; or

(D) Is using the property primarily to operate a FRESH food store, as defined by Section 63-01 of the New York City Zoning Resolution.

d. For the purposes of this Article, the term “prevailing wage” means the rate of wage and supplemental benefits paid in the locality to workers in the same trade or occupation and annually determined by the Comptroller of the City of New York in accordance with the provisions of section 234 of the Labor Law. As

provided under section 231 of the Labor Law, the obligation of an employer to pay prevailing supplements may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments under rules and regulations established by the Comptroller.

e. The Corporation may convey, lease as lessor or otherwise dispose of real property for a use other than use as a prevailing wage property only where the Corporation complies with Subdivision b of Section 25-905 of the Administrative Code of the City of New York; provided further that, in the report required by Paragraph 2 of Subdivision b of Section 25-905 of such code, the Corporation shall specify the reason that disposition of the property for use as a prevailing wage property is impracticable or undesirable.

5. Strategic Plan. The Corporation shall develop a strategic plan to address the purposes for which it has been formed and shall update such plan from time to time as needed. The Corporation shall provide a copy of such plan, and any updates thereto, to each member.

6. Nondiscrimination and Affirmative Action Policy. The Corporation shall have a nondiscrimination and affirmative action policy which shall read as follows:

“NEW YORK CITY LAND CORPORATION
NONDISCRIMINATION AND AFFIRMATIVE ACTION POLICY”

The New York City Land Corporation (NYCLC) shall not discriminate against any person upon the basis of race, color, religion, national origin, sex, disability, sexual orientation, gender identity, age, familial status, marital status, partnership status, lawful occupation, lawful source of income, military status, alienage or citizenship status, or on the grounds that a person is a victim of domestic violence, dating violence, or stalking. This policy also prohibits retaliation.

NYCLC shall also ensure that any transferee or purchaser of any property from NYCLC, and any successor in interest thereto, abides by this policy in the sale, lease or rental, or in the use or occupancy of the property or improvements erected or to be erected thereon or any part thereof.”

§ 2. This local law takes effect immediately. This local law expires 1 year after enactment unless the urban development corporation approves this local law under subdivision (g) of section 1603 of the not-for-profit corporation law within 1 year after enactment.

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