

Appellate Court Unanimously Reverses Lower Court's Inwood Rezoning Decision, Finding SEQRA Does Not Require Agencies to Address Impacts to Racial and Ethnic Composition of Neighborhoods

July 31, 2020

On July 23, 2020, the Appellate Division for the First Department of New York unanimously reversed a December 19, 2019 decision from the Supreme Court for New York County that had annulled the City's 2018 rezoning of parts of the Inwood neighborhood. The trial court decision was by all accounts a major surprise as courts generally provide strong deference to environmental impact statements prepared under the State Environmental Quality Review Act by government agencies or municipalities. The rezoning had made modest increases in allowable heights and densities in certain low-rise and industrial portions of Inwood in exchange for affordable housing requirements, extending the Mayor's mandatory inclusionary housing program to Manhattan's northernmost community. Judge Verna Saunders found that the City failed to take a hard look at socioeconomic issues raised by the community during public comment on the draft EIS, like the rezoning's potential displacement of working-class residents; displacement of certain racial groups; and increase in police/fire emergency response times due to greater traffic. See, *Northern Manhattan is Not for Sale et al. v. City of New York*, 2019 N.Y. Misc. LEXIS 6755 (N.Y. County Supreme Court December 16, 2019).

The appeals court strongly disagreed, rejecting each of the alleged impacts of the rezoning and finding that the change "would likely improve the rental situation, or at least ease the rent pressures that were already in effect." Moreover, the City "was not required to perform analysis aimed at forecasting the mix of ethnicities expected to occupy units in the development[s], and the corresponding impact on the prevailing racial and ethnic concentration." See, *Northern Manhattan*, Index No. 161578/18 (1st Dep't July 23, 2020). Petitioners have indicated an intention to appeal the decision to the N.Y. Court of Appeals but that appeal will likely not be as-of-right due to the unanimous nature of the appellate court decision.

* * *

For more information concerning the Carter Ledyard & Milburn LLP uses Client Advisories to inform clients and other interested parties of noteworthy issues, decisions and legislation which may affect them or their businesses. A Client Advisory does not constitute legal advice or an opinion. This document was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. © 2020 Carter Ledyard & Milburn LLP.

related professionals

Christopher Rizzo / Partner

D 212-238-8677

rizzo@clm.com