

Opponents of City Rezoning Score Rare Victory in Inwood; City Quickly Appeals

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February 18, 2020 by Christopher Rizzo

On December 16, 2019, a Manhattan trial court issued a surprising decision rejecting an environmental impact statement issued by New York City (acting through the Office of Deputy Mayor for Housing and Economic Development) and annulling the rezoning of the Inwood neighborhood, which the City Council approved on August 8, 2018. 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. Challenges to environmental impact statements rarely result in complete reversal of agency decisions. But 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.

The trial court's decision is at odds with much SEQRA caselaw about agencies' duties to study public comments or evaluate impacts on specific demographic groups. Courts have previously cast doubt on a requirement for agencies to study (as opposed to merely respond to) public comments submitted on a draft environmental impact statement—particularly when the comments relate to concerns about indirect impacts of a government action. As such, the City's Law Department submitted its notice of appeal within days of the Court's decision and perfected the appeal on February 10, 2020—asking the Appellate Division, First Department for an expedited hearing and decision-making schedule. The Appellate Division's ruling in 2020 is likely to address critical issues about the scope of socioeconomic chapters in environmental review documents. 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).

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