

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, § 1 (e)

Bill Number: Assembly 2176 Senate _____

- Memo on original draft of bill
 Memo on amended bill

Sponsors: Members of Assembly: May W. Newburger

Senators: _____

Introduced at the request of _____

Title of Bill: AN ACT to amend the general city law, the town law and the village law, in relation to standing of neighborhood organizations in zoning matter.

Purpose or General Idea of Bill: The purpose of this legislation is to grant to civic associations standing to seek judicial review of zoning determinations.

Summary of Specific Provisions: The general city law is amended by adding two new sections thirty-seven-a and eighty-one-b; the town law is amended by adding a new section two-hundred sixty-six-a; the village law is amended by adding a new section 7-711. The bill defines in detail the various provisions outlining what actually can be regarded as a neighborhood organization.

Effects of Present Law which This Bill would Alter: This bill will harmonize the relevant statutes with the decision of the Court of Appeals in Douglaston Civic Association, Inc. v. Galvin, 36, N.Y. 2d 1 (1974), which held that "an appropriate representative association should have standing to assert rights of the individual members of the association where such persons may be affected by a rezoning, variance, or an exception determination of a zoning board.

Justification: In the Douglaston case, the court stated: "While outlining these factors, we are mindful of the desirability of having such standards enunciated by the Legislature." This legislation fulfills what the Court requested in its 1974 decision. Clearly an appropriate representative association should have standing to assert rights of individual members of the association where such members may be affected by a zoning decision. An individual whose status quo is being affected by a zoning change should not be expected to solely assume the expense and time of challenging the zoning change. On the other hand, the developer will usually have the financial resources to request a change in the zoning law and, if he is successful, unlike the individual homeowner, he will have a great deal to gain. By granting neighborhood associations standing in zoning matters, the expense and burden of challenging a zoning change can be spread out among the members of the organization putting them on an economic parity with the developer.

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Prior Legislative History: New legislation.

Fiscal Implications for State and Local Governments: None.

Effective Date: This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

STATE OF NEW YORK



2176

1979-1980 Regular Sessions

IN ASSEMBLY

January 29, 1979

Introduced by M. of A. NEWBURGER—read once and referred to the Committee on Local Governments

AN ACT to amend the general city law, the town law and the village law, in relation to standing of neighborhood organizations in zoning matters

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general city law is amended by adding two new sections thirty-
2 seven-a and eighty-one-b to read as follows:

3 §37-a. *Neighborhood organizations.* 1. *A neighborhood organization shall be*
4 *deemed to be a person aggrieved under this article if the board of appeals issues an*
5 *order designating it as a qualified neighborhood organization.*

6 2. *The board of appeals shall issue an order designating a neighborhood*
7 *organization as qualified under this section if it finds that:*

8 (a) *the neighborhood organization has filed an application showing:*

9 (i) *its proposed boundaries, which encompass, at least in part, land within the*
10 *jurisdiction of the board of appeals;*

11 (ii) *the name and address of its representative or office for the receipt of notices*
12 *and other communications;*

13 (iii) *the names and addresses of its officers and directors; and*

14 (b) *the neighborhood organization represents more than half of the adults residing*
15 *within its boundaries, for all or a substantial part of the year, such representation to*
16 *be shown by membership or other evidence satisfactory to the board of appeals;*

17 (c) *the neighborhood organization demonstrates that it has at least fifty members;*

18 (d) *at least fifty per cent of the area of the land within the boundaries of the*
19 *neighborhood organization is developed for residential use or is available for*
20 *residential use under the existing development controls; and*

21 (e) *full participating membership in the neighborhood organization is open at*
22 *least to all registered voters within its boundaries.*

23 3. *The board of appeals shall not refuse to designate a neighborhood organization*
24 *as representative of a particular area merely because one or more other neighborhood*
25 *organizations represent part or all of the same area as long as each complies with the*
26 *requirements of this section.*

EXPLANATION — Matter in *italics* is new; matter in brackets [] is old law to be omitted.

LBD9-36-344

1 4. The board of appeals shall establish an interval of time after which
2 qualifications under this section will expire unless renewed, which interval shall not
3 be less than two years or greater than five years. The board of appeals shall give
4 notice to the neighborhood organization of the necessity for renewal not more than six
5 months nor less than three months prior to the expiration date.

6 § 81-b. Neighborhood organizations. 1. A neighborhood organization shall be
7 deemed to be a person aggrieved under this article if the board of appeals issues an
8 order designating it as a qualified neighborhood organization.

9 2. The board of appeals shall issue an order designating a neighborhood
10 organization as qualified under this section if it finds that:

11 (a) the neighborhood organization has filed an application showing:

12 (i) its proposed boundaries, which encompass, at least in part, land within the
13 jurisdiction of the board of appeals;

14 (ii) the name and address of its representative or office for the receipt of notices
15 and other communications;

16 (iii) the names and addresses of its officers and directors; and

17 (b) the neighborhood organization represents more than half of the adults residing
18 within its boundaries, for all or a substantial part of the year, such representation to
19 be shown by membership or other evidence satisfactory to the board of appeals;

20 (c) the neighborhood organization demonstrates that it has at least fifty members;

21 (d) at least fifty per cent of the area of the land within the boundaries of the
22 neighborhood organization is developed for residential use or is available for
23 residential use under the existing development controls; and

24 (e) full participating membership in the neighborhood organization is open at
25 least to all registered voters within its boundaries.

26 3. The board of appeals shall not refuse to designate a neighborhood organization
27 as representative of a particular area merely because one or more other neighborhood
28 organizations represent part or all of the same area as long as each complies with the
29 requirements of this section.

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31 qualifications under this section will expire unless renewed, which interval shall not
32 be less than two years or greater than five years. The board of appeals shall give
33 notice to the neighborhood organization of the necessity for renewal not more than six
34 months nor less than three months prior to the expiration date.

35 § 2. The town law is amended by adding a new section two hundred sixty-six-
36 a to read as follows:

37 § 266-a. 1. Neighborhood organizations. A neighborhood organization shall be
38 deemed to be a person aggrieved under this article if the board of appeals issues an
39 order designating it as a qualified neighborhood organization.

40 2. The board of appeals shall issue an order designating a neighborhood
41 organization as qualified under this section if it finds that:

42 (a) the neighborhood organization has filed an application showing:

43 (i) its proposed boundaries, which encompass, at least in part, land within the
44 jurisdiction of the board of appeals,

45 (ii) the name and address of its representative or office for the receipt of notices
46 and other communications,

47 (iii) the names and addresses of its officers and directors; and

48 (b) the neighborhood organization represents more than half of the adults residing
49 within its boundaries, for all or a substantial part of the year, such representation to
50 be shown by membership or other evidence satisfactory to the board of appeals; and

51 (c) the neighborhood organization demonstrates that it has at least fifty members;
52 and

53 (d) at least fifty per cent of the area of the land within the boundaries of the
54 neighborhood organization is developed for residential use or is available for
55 residential use under the existing development controls; and

1 (e) full participating membership in the neighborhood organization is open at
2 least to all registered voters within its boundaries.

3 3. The board of appeals shall not refuse to designate a neighborhood organization
4 as representative of a particular area merely because one or more other neighborhood
5 organizations represent part or all of the same area as long as each complies with the
6 requirements of this section.

7 4. The board of appeals shall establish an interval of time after which
8 qualifications under this section will expire unless renewed, which interval shall not
9 be less than two years or greater than five years. The board of appeals shall give
10 notice to the neighborhood organization of the necessity for renewal not more than six
11 months nor less than three months prior to the expiration date.

12 § 3. The village law is amended by adding a new section 7-711 to read as
13 follows:

14 § 7-711 Neighborhood organizations. 1. A neighborhood organization shall be
15 deemed to be a person aggrieved under this article if the board of appeals issues an
16 order designating it as a qualified neighborhood organization.

17 2. The board of appeals shall issue an order designating a neighborhood
18 organization as qualified under this section if it finds that:

19 (a) the neighborhood organization has filed an application showing:

20 (i) its proposed boundaries, which encompass, at least in part, land within the
21 jurisdiction of the board of appeals,

22 (ii) the name and address of its representative or office for the receipt of notices
23 and other communications,

24 (iii) the names and addresses of its officers and directors; and

25 (b) the neighborhood organization represents more than half of the adults residing
26 within its boundaries, for all or a substantial part of the year, such representation to
27 be shown by membership or other evidence satisfactory to the board of appeals; and

28 (c) the neighborhood organization demonstrates that it has at least fifty members;
29 and

30 (d) at least fifty per cent of the area of the land within the boundaries of the
31 neighborhood organization is developed for residential use or is available for
32 residential use under the existing development controls; and

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34 least to all registered voters within its boundaries.

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36 as representative of a particular area merely because one or more other neighborhood
37 organizations represent part or all of the same area as long as each complies with the
38 requirements of this section.

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40 qualifications under this section will expire unless renewed, which interval shall not
41 be less than two years or greater than five years. The board of appeals shall give
42 notice to the neighborhood organization of the necessity for renewal not more than six
43 months nor less than three months prior to the expiration date.

44 § 4. This act shall take effect on the first day of September next succeeding
45 the date on which it shall have become a law.

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MEMO FROM
NEW YORK STATE ASSEMBLY

MAY W. NEWBURGER
Member of Assembly

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3890

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From Anna

To Dow

Subject attached

- here thru 1 ag
✓ 50% of land used
✓ 50% of adults / 50 miles
1/2 # of miles equal to
last local election

I have great hopes and would appreciate your thoughts and that of the Association on this bill. I hope my excitement is shared!
Thanker

Rm 619

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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