



New York State Conference of Mayors and Municipal Officials

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July 9, 2014

Hon. Mylan Denerstein
Counsel to the Governor
State Capitol - Room 225
Albany, NY 12224

Re: A. 5360

Dear Ms. Denerstein:

The Conference of Mayors has reviewed this bill, opposes its provisions, and recommends against its enactment into law. This bill would amend the Agriculture and Markets Law and the Not-For-Profit Corporation Law to exempt fairgrounds and agricultural and horticultural corporations from local government regulations.

Under this proposed legislation, Not-For-Profit Corporation Law § 1409 would be amended to substantially limit the ability of any city, town or village to regulate the construction, improvement, renovation, relocation or demolition of all or any of a agricultural or horticultural corporation's grounds, buildings, or facilities. As a result, agricultural and horticultural corporations would be able to construct whatever buildings they would like, regardless of the impact such buildings would have on the neighboring property owners or the surrounding community as a whole. The fairground operators would not be subject to any state-authorized land use regulations, nor would the public have any opportunity to weigh in on the potential effects such development would have on them or their community. Such a restriction on a local government's ability to direct the development of land uses within its jurisdiction would potentially allow an undemocratically-elected agricultural and horticultural corporation board to significantly impact a community's growth and development.

Many fairgrounds are located in close proximity to densely populated communities. Consequently, when events such as concerts, flea markets, motor car races, demolition derbies and tractor-truck pulls are held – that frequently attract thousands of patrons – there are often negative impacts on the surrounding community, including traffic, crowds, public urination, property damage, noise, air pollution and crime. This proposed legislation would exempt fairgrounds from complying with mass gathering local laws, noise ordinances, and other nuisance laws that are designed to address the negative impacts of such events, while still allowing them to occur in a reasonable manner. This would clearly have a fiscal impact on the communities as well, as they have to expend resources to address the increased need for municipal services to deal with traffic, parking, crowd control and crime.

Finally, while the sponsor's memorandum in support states that the amendment eliminates confusion "by clarifying language pertaining to the payment of a license fee as well as the powers of association of farmers," we believe the legislation actually muddies the waters by raising additional questions. For example, what constitutes "safety, health, and well-being of persons?" Additionally, what will constitute "unreasonable" prohibitions or restrictions?

Because this bill would (1) supplant the authority of democratically-elected local governing boards regarding decisions that affect a community's built environment with those of

unaccountable agricultural and horticultural corporations, (2) potentially increase the service-related burdens placed on these communities that have fairgrounds within their jurisdictions, and (3) generate additional questions, confusion and litigation regarding the ability of local officials to control the activities within their communities, the Conference of Mayors opposes this legislation and recommends that the Governor veto this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Baynes", with a long horizontal flourish extending to the right.

Peter A. Baynes
Executive Director