

Town of Stony Creek
Board of Assessors
 Town Hall, 52 Hadley Rd., P.O. Box 96
 Stony Creek, N.Y. 12878

Peter La Grasse, Chairman
Board of Assessors
911 Facilitator
 November 27, 2019

Honorable Robert Smullen
 Room 527 Legislative Office Building
 Albany, N.Y. 12248

Re: 8123- -A June 3, 2019

Dear Hon. Robert Smullen:

This letter is a critical evaluation of Assembly Act 8123 A, "*an Act to amend the executive law, in relation to preserving ecological integrity, wildlife and open space in the Adirondack Park.*"

This act expands upon the draconian provisions of the current Adirondack Park Act, providing for forfeiture of up to 75% of privately held land in the event of modest subdivisions, under the pretense "*to curtail rural sprawl.*" (page 2, line 12, A. 8123- - A) In studying this ACT, as an experienced town tax assessor, I have determined that the provisions of this Act would potentially adversely impact the tax base for towns within the Adirondack Park, in some cases to a major degree, and would take property for a highly disputed public purpose without compensation. This letter is an analysis of this bill and its potential adverse tax base impact.

Current land use law in Adirondack park

The proposed Act would change the law pertaining to the following Adirondack Park Agency Act land use areas: Low Intensity, Rural Use and Resource Management. In these land use areas respectively, lot sizes of 3.2 acres, 8.5 acres and 42.7 acres per single family home, on average, are allowed. On the basis of these density allotments, vacant land values including front land values and shoreline values have been developed by assessors, and have also been developed by New York State for state-owned-land purposes. In the Town of Stony Creek, roughly one half of the town's acreage is state owned land. Of the privately-owned land, about half is designated Resource Management, about 13,000 acres. Most of the remaining half of privately-owned land is either Rural Use or Low Intensity-designated land. Nearly all of the privately-owned land would be regulated by this Act.

Proposed land use law in Adirondack Park

The proposed Act has introduced a "*conservation subdivision*" concept (page 2, line 19, 8123- - A): A subdivision of 25 or more parcels in Low Intensity, 10 or more parcels in Rural Use, and 5 or more parcels in Resource Management is designated a "*conservation*

subdivision.” While subdivisions of this scope have always been reviewable by the Adirondack Park Agency (APA), it is the stipulations of the “*conservation subdivision*” that create the additional cost of a subdivision proposal and will surely adversely affect the tax base, especially when coupled with the new concepts of “*development envelope*,” “*ecological impact zone*,” “*ecological site analysis*,” “*open space management and stewardship plan*.”

In Rural Use areas and Resource Management areas, residential subdivisions in “*conservation subdivisions*” “*should occur in relatively small clusters on carefully selected and well-designed sites.*” (8123- -A, page 3, line 10-11 for Rural Use and line 26-27 for Resource Management) Clustered development sites are coupled with an “*open space management plan.*” The minimum “*open space*” is 40% of the project site in Low Intensity, 55% in Rural Use, and 75% in Resource Management. (page 5, line 14-23; 8123- - A) To quote the Act, “*open space management and stewardship plan means a plan for the ownership, configuration, permanent legal protection, forestry, agriculture and recreational open space uses, and management of designed open spaces. Open space management and stewardship plan also means a plan for the ownership, configuration and management of open spaces providing permanent legal protection of open spaces while allowing for forestry, agriculture and recreation open spaces.*” (page 2, line 42-48; 8123- - A) Notwithstanding “*allowing for forestry, agriculture and recreation open spaces*,” this provision would force the land owner to give up 75% of his or her land and have a clustered subdivision of far reduced value without compensation. It is a taking.

As an example, say a person had a Dartmouth Patent Great Lot in Stony Creek. This would be the typical Great Lot found in the easterly half of Hadley, Stony Creek, and Thurman. Such a lot would be 234 acres, and in Resource Management zone of 42.7 acres per residence, this parcel would be entitled to five residences of about 47 acres each. The market demand for such a size lot for a home is strong. Under the proposed law 75% of the parcel would have to be designated “*open space*,” and 25% would be the “*development envelope.*” In this example 140 acres would be “*open space*,” and 58.5 acres would be the development envelope. This means that, in this case, each lot would be a maximum of 11.7 acres, but roadways would reduce this acreage. There is no market for open space that you can’t use, and there is a greatly reduced market for 11-acre parcels compared to 40-acre parcels. Then, the development cost just to comply with the proposed Act’s environmental studies, which are extensive, would additionally burden a developer. These costs, like the Affordable Care Act, can only be known if the Act is passed. Nevertheless, environmental studies and hearings required by this Act, are expensive, and would preclude development in most cases. This, in turn, diminishes the value of large acreage plots, and could diminish the State of New York figures for land.

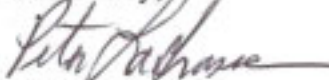
Page 2, line 34-36 of 8123- - A defines “*ecological impact zone*” as being one eighth miles beyond the “*development zone.*” This very well could be a required setback from a shoreline, especially when you contemplate the ecological site analysis (page 4, line 25-48; 123- - A). It is not uncommon for lake shore areas to have “*sensitive areas of habitat, wetlands, floodplains, natural drainage ways, terrestrial and aquatic wildlife inhabiting, breeding on, migrating across, traversing or otherwise using the project site, watershed preservation and for mitigation of climate change.*” All this is in the above cited reference.

This language provides sufficient cause to consider use of shoreline would be prohibited. Consider that the development envelope, which includes the extent of the front lawn, would have to be set back one eighth mile from the shoreline (660 ft). Then the shoreline is diminished to zero value in any potential building site, again a taking without compensation. The State of New York has developed shoreline values for all lakes in the state that have state-owned-land shoreline. On Lake George, in the Town of Dresden, the 2015 shoreline value of Lake George is \$950 /ft to \$6,180/ft depending on shoreline quality and accessibility guidelines. In Bolton Landing, the shoreline value on Lake George is \$2,825 /ft to \$9,410/ft. Harrisburg Lake in the town of Stony Creek has values of \$145/ft to \$480/ft. As you can see, shoreline is a big deal in some towns, and these values would be in jeopardy throughout the Adirondacks if the shoreline use is to be restricted in ways clearly predictable in the language of the proposed Act.

The Act states the purpose is to reduce rural sprawl, but no reasonable person would argue that one house on 42 acres, on average, is rural sprawl. Instead, this Act would create clustered sprawl on small lots with diminished value. In my town we have a 1,000 acre parcel used mostly for forestry, but with eight hunting camps leased on this lot. These camps are dispersed over the parcel, primarily using the town highway that traverses the parcel for access. These hunters want open space between their camps, they do not want to be clustered. Under this proposed Act, these camps would not be allowed.

For the reason that the proposed Act will destroy the value of a considerable portion of the tax base, and shift taxes to existing homeowners, and because it would be a taking of private property without compensation, I urge you to oppose Assembly Act 8123 - -A .

Yours truly,



Peter La Grasse

Cc: Senator Elizabeth O'C. Little
Senator James N. Tedisco
Senator Daphne Jordan
Senator James L. Seward
Senator Joseph A. Griffo
Senator John J. Flanagan
Hon. Daniel G. Stec
Hon. Brian D. Miller
Hon. Steven Englebright