

**Introduced by:** Minority Leader Kevan Abrahams and Legislator Siela A. Bynoe

**Co-Sponsors:** Legislators Carrié Solages, Debra Mulé, Ellen Birnbaum, Delia DeRiggi-Whitton, Arnold W. Drucker and Joshua A. Lafazan

LOCAL LAW 5 -2020

A LOCAL LAW REQUIRING LEGISLATIVE APPROVAL FOR COMPENSATION PAID IN CONNECTION WITH THE COMPROMISE OR SETTLEMENT OF A PROCEEDING IN CONDEMNATION OR EMINENT DOMAIN

Passed by the Nassau County Legislature on April 20, 2020

Voting: ayes: 19, nays: 0

Became a law on May 20, 2020 with the approval of the County Executive

APPROVED AS TO FORM

PETER J. CUNES MINORITY COUNSEL



WHEREAS, the County is authorized to exercise the power of eminent domain by engaging in condemnation proceedings and acquiring title to real property in return for the payment of just compensation; and

WHEREAS, in the past, the Legislature has delegated to the County Attorney the right to compromise and settle condemnation proceedings by agreeing upon an amount of compensation to be paid to the owner of the condemned property without further legislative approval; and

WHEREAS, it is the judgment of this Legislature that enhanced legislative oversight over settlement of condemnation proceedings is necessary to ensure that amounts paid in compensation are fiscally prudent, based on fair market value, and are in the best interest of the County taxpayers; and

WHEREAS, in view of the foregoing, this Legislature hereby determines that in connection with the compromise or settlement of a proceeding in condemnation or eminent domain in which the County is the condemnor, the County Attorney shall seek prior approval from the Legislature for the amount of compensation to be paid by the County to the affected property owner and shall not be authorized to approve the payment of any such compensation without such Legislative approval; now therefore

**BE IT ENACTED** by the County Legislature of the County of Nassau as follows:

**Section 1.** Section 11-3.0 of Chapter XI, Title A of Chapter 272 of the Laws of 1939 constituting the Nassau County Administrative Code is hereby amended as follows:

**§ 11-3.0 Powers and duties.**

a. The County Attorney or special counsel for the County shall not have the power to institute any action or proceeding on behalf of the County, or any of its officers, except by direction of the Board of Supervisors or the County Executive or an officer, board, commission or body having power or authority under statute to direct the starting of any such action or proceeding.

b. He shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against the County unless authorized by the Board of Supervisors acting by resolution, or by the Board, body, commission or officer empowered by statute to direct or consent to such compromise, settlement or adjustment. However, this prohibition shall not operate to limit or abridge the discretion of the County Attorney in regard to the proper conduct of the trial of any proceeding or action at law, or to deprive such County Attorney of the powers or privileges ordinarily exercised in the course of litigation by attorneys at law when acting for private clients. He shall not permit, offer or confess judgment against the County, or accept any offer of judgment in favor of the County, unless previously duly authorized so to do by resolution of the Board of Supervisors. In connection with the compromise or settlement of a proceeding in condemnation or eminent domain in which the County is the condemnor, the County Attorney shall seek prior approval from the Legislature for the amount of compensation to be paid by the County to the affected property owner and shall not be authorized to agree to the payment of any such compensation in the absence of such Legislative approval.

**Section 2. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 3. SEQRA Determination.**

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 at seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c) (33) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment, and no further review is required.

**Section 4. Effective Date.**

This local law shall take effect immediately upon adoption.

**APPROVED**

  
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**County Executive**

DATE 5-20-20