Title: An Act to amend the general municipal law, in relation to vested rights relating to land development.

Provisions: This legislation will create a 6-year pilot program in Dutchess, Orange, Putnam, Rockland and Westchester Counties, allowing developers to acquire vested rights at the earliest point in the permitting process and avoid future changes to local laws or zoning. This pilot program will study the correlation between the vested property rights legislation and its impact on the creation of jobs, economic development, and the quality of local community life.

Statement of Opposition: This bill is designed to give developers with over-scaled or inappropriate projects immunity from changes to zoning codes or land use laws - changes that planning boards might implement to make such proposals better fit with local community needs. This blatant end around local land use planning - by granting vested rights at the earliest stages of a proposal - ignores the fact that New York State has a strong common law standard that is fair to developers. In the vast majority of cases the courts have granted developers rights when they follow the process and invest in a project based upon approvals. New York courts have always stood up for developers with “a permit in hand and shovel in the ground.” Simply put there is a solid and fair process in place that protects both developers and municipalities. There is no need to stack the deck in favor of those that do not always represent what is best for the community.

Over the past few years the bill has received multiple amendments and in many ways has become more convoluted in its attempt to address criticism. What was intended to be a state wide law has been limited to the Hudson Valley and administered as a 6-year trial. But in spite of these changes, the truth remains that the common law standard works and any attempt to subvert it puts local land-use law on a shaky foundation. This bill, if enacted, will certainly lead to more lawsuits as developers and planning boards a like try to navigate its provisions.

Developers will share generic scenarios of applications taking 10 years to complete and declarations of being “jerked around” yet have failed to demonstrate that unfair zoning changes happen with any regularity. Even a cursory analysis of the situation reveals that the problem is with ill-conceived projects that are truly inappropriate - not the local agencies that seek to protect unique community assets. Developers are also spending more time and funds in the pre-application phase – meeting unofficially with planning boards before there is any trigger of public process and SEQRA review. The cost incurred to developers who avoid early citizen participation should never be the basis for demonstrated hardship.

Again, the courts support those that make a good faith effort in following the process. Legislation like A.494/S.2565 limits the ability of municipalities to respond to development proposals and only makes the problem of “sprawl without growth” worse in New York. By targeting the Hudson Valley for the pilot program we will be only hurting one of the most sensitive development areas in the State, where explosive sprawl and diminishing open space are persistent problems and threaten the thriving tourism based economy.