

## VETO MESSAGE:

VETO MESSAGE - No. 84

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 7432, entitled:

"AN ACT to amend the public authorities law, in relation to requiring public authorities to provide municipal corporations with right of first refusal on real property prior to disposal or sale"

NOT APPROVED

This bill would require New York public authorities to provide municipal corporations with a right of first refusal on real property prior to any sale, lease or disposition of real property. While this bill seeks to advance the laudable goal of benefiting the State's municipal corporations, this bill has serious technical flaws that warrant disapproval.

Perhaps most significantly, this bill would impair our public authorities' efforts to maximize the value of their real property holdings, a vital effort in their efficient operations and property management. Under this bill, before an authority could list a parcel of property for sale, it would need to disclose to each affected municipality the lowest

possible price the authority would accept. This disclosure may be made public by municipalities pursuant to the Freedom of Information Law, which would significantly reduce the chances of a robust bidding process beneficial to an authority. This bill further impairs the vigorous marketing of authority property by discouraging interested private sector bidders from making offers that could be usurped by municipal-

palities. Also, this bill impairs an authority's power to lower its asking price in the event it lists a property in excess of market value, as the bill prohibits any sale for less than the lowest acceptable price communicated to a municipality.

Furthermore, this bill would unconstitutionally impair existing public authority contracts granting rights of first refusal by purportedly subordinating them to municipal rights of first refusal. This bill would also conflict with Eminent Domain Procedure Law Section 406(a), which grants a prior land owner certain rights of first refusal regarding land that was taken from them pursuant to eminent domain. Finally, the right of refusal created by this bill would permit municipalities to frustrate the missions and purposes of public authorities otherwise fulfilled by leasing or transferring real property to others, for market value or otherwise.

As noted above, I support the purpose of this bill, which is to allow municipalities to obtain surplus public authority property at a reasonable cost. As a result, I have asked my staff to work with the sponsors of this bill, and with affected public authorities, in an effort to craft legislation that accomplishes this worthy goal without creating the adverse consequences that would result from this legislation.

The bill is disapproved.

(signed) ELIOT SPITZER

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