STATE OF NEW YORK DEPARTMENT OF LAW

OFFICE OF ATTORNEY GENERAL ROBERT ABRAMS

MEMORANDUM

TO: REF Attorneys, Paralegals & Law Students

DATE: 1/11/88

FROM: Mary Sabatini DiStephan

RE: RPL § 334(a)(1)/Nassau County

This memo replaces all prior directives concerning the Nassau County requirement that owners/developers of properties located in Nassau County file maps with the Clerk of Nassau County whenever they subdivide their property into lots, blocks, sites or units (including coops) and offer them for sale pursuant to Real Property Law Section 334(a)(1) (copy attached).

We have met with Herbert Libert, the Director of Nassau County Planning Commission, two of his associates and a deputy county attorney to coordinate our review with their enforcement of the statute.

The following requirements and exemptions are applicable to all areas located within the unincorporated areas of Nassau County (i.e., Towns of Hempstead, North Hempstead and Oyster Bay) and those areas located within villages and cities that are within 300 feet of the various town boundaries.

Areas located within villages and cities are within the jurisdiction of such municipalities and are not under the jurisdiction of the Nassau County Planning Commission. In those municipalities disclosure of the statute and representation to comply is sufficient since they have established no procedures for compliance as yet.

We have agreed to the following procedures with the Nassau County Planning Commission:

ACCEPTED PRIOR TO AUGUST 5, 1987

As to all plans which were accepted for filing prior to August 5, 1987 and were either pre-existing buildings or where permits to commence construction were issued by the local Building Department, no sub-division approvals are required and "sponsors" do not have to comply with these procedures.

ACCEPTED ON OR AFTER AUGUST 5, 1987

As to plans which were not accepted for filing before August 5, 1987:

1. No plan will be accepted for filing without a letter from the Nassau County Planning Commission confirming that an application for final subdivision approval has been filed. (These letters will be provided to the sponsors by Nassau County upon filing of the application.)

2. No plan may be declared effective and no effectiveness amendment will be accepted for filing unless and until a subdivision map has been filed with the Nassau County Clerk pursuant to Real Property Law Section 334-a or a letter from the Nassau County Planning Commission has been obtained indicating compliance with their requirements. The Nassau County Clerk will provide the sponsor with a letter confirming that the map has been filed. The Attorney General will not accept an effectiveness amendment for a Nassau County plan without such a letter. The sponsor will thereafter file a copy of the accepted effectiveness amendment with the Nassau County Clerk. Contracts or subscription agreements must contain a boldly printed notice in plain English to the effect that the transaction is expressly subject to the final approval of the map by the Nassau County Planning Commission which approval may result in the changing, alteration or modification of units, lot lines, streets. A right of rescission will be granted to purchasers where material changes occur.

3. Exempt from the above procedures are plans for buildings where there is a proposed conversion of an existing structure which structure:

   (a) was in existence and legally occupied prior to August 5, 1987; and

   (b) where title to said structure is to be converted to a cooperative form of ownership; and

   (c) where the use thereof is in compliance with applicable zoning and planning regulations; and

(d) which is being converted to cooperative but not condominium ownership. There is currently a proposal to extend this exemption to condominiums also. I shall keep you advised if this change occurs.

Please check your Nassau County Plans accepted for filing since August 5, 1987 and inform the sponsor's attorney to provide the above disclosure, and to apply for approvals.

Careful implementation of this procedure should eliminate the problem of purchasers contracting for homes in Nassau County which can never close.

MSD:kd

STATE OF NEW YORK

6167

1987-1988 Regular Sessions

IN SENATE

June 9, 1987

Introduced by Sen. DUNNE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the real property law, in relation to the filing of subdivision maps in Nassau county

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section three hundred thirty-four-a of the real property law, as amended by chapter three hundred ninety-five of the laws of nineteen hundred sixty-nine, is amended to read as follows:

1. It shall be the duty of every person or corporation, excepting church cemetery corporations attached to a religious parish within the county of Nassau, who, as owner or agent of real property situated in the county of Nassau, subdivides the same into lots, plots, blocks, sites, or units with or without streets, for the purpose of offering such lots, plots, blocks, sites, or units for sale to the public, regardless of whether they are conveyed by lot, plot or block designations or by metes and bounds, prior to the offering of such lots, plots, blocks, sites or units for sale, to file or cause to be filed in the office of the clerk of Nassau county a map or maps of such real property, subject to the following exceptions:

(a) where real property is subdivided into [less] *not more* than [five] *four* lots, plots, blocks, sites or units *that conform to the applicable planning and zoning regulations or ordinances of the city, town or village, as the case may be,* and such subdivision does not involve the laying out of a street or the extension of a previously laid out street, the owner or agent *may* make *written application* to the planning commission or planning authorities having jurisdiction for *a waiver of the* filing requirements hereunder upon forms supplied by the appropriate

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD06960-01-7

planning commission. Such a waiver may be granted by such planning commission or planning authorities after determining that such subdivision [plot] plat is in compliance with this [subdivision] section and with the zoning and planning regulations of the city, town or village, as the case may be, in which the property is located. The request for a waiver shall be acted upon without a public hearing within [ten] fifteen days after the filing of the application unless such period shall have been extended by consent of the applicant. Where real property is capable of being subdivided into more than four lots, plots, blocks, sites or units that conform to the applicable planning and zoning regulations or ordinances of the city, town or village, as the case may be, and such subdivision does not involve the laying out of a street or the extension of a previously laid out street, the planning commission or planning authorities having jurisdiction may, in the sole discretion of such planning commission or planning authorities deny such waiver application and require the filing in the office of the clerk of Nassau county a map or maps of such real property, subject to appropriate conditions as in the judgment of such planning commission or planning authorities as are requisite in the interest of the public health, safety and general welfare; or

(b) where a subdivision map has been filed prior to January twelfth, nineteen hundred forty-five, and alterations made thereon do not involve any change, or extensions of previously laid out streets and where the only alterations are changes in lot boundaries which are made solely for the purpose of adhering to applicable zoning regulations, it shall not be necessary to file such altered map or obtain a waiver therefor.

As used in this section, the term "units" shall include space used or to be used for either residential, commercial, mixed or other use whether title is held in fee simple, a condominium, cooperative, or mixed form of ownership. It shall be unlawful, after a map or maps of such property has been filed, to subdivide said property in a manner other than as shown on said map unless said map has been amended and approved in accordance with the provisions of subdivision six of this section.

§ 2. This act shall take effect immediately.