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Funding Local Government Acquisition of Open Lands in New York State Part I

by Jeffrey P. LeJava

Editors Note: Part I of this article examines the authority municipalities have to purchase title to, or the developments rights of open lands, lands that are preserved due to their unique open space character. In addition, Part I describes the various sources of revenue that municipalities may look towards to fund their acquisition efforts. Part II, which will appear in next month's issue, will discuss local government financing options and provide examples of open lands acquisition programs from around New York State.

I. INTRODUCTION

As development pressures mount,¹ local governments throughout the State of New York are searching for methods of retaining the open character of their communities. When the search is simply for "openness," then the preservation of any open space that will retain the community's historic open character will suffice. In most communities, however, other critical objectives motivate the search for methods of retaining open lands. In farming communities, there is often a desire to retain viable agricultural lands and the economic vitality and tax revenues that those farms generate. Maintaining the farms themselves often bears a crucial relationship to the historic nature of the community that many current residents value. In other communities, there is a profound concern for maintaining sufficient open lands to provide shelter and a hospitable environment for valued plant and animal species that are rapidly disappearing due to increased land development. Other communities combine these objectives and seek, for example, to

preserve viable farmlands while protecting habitats, wetlands, and other natural resources on those lands.

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recycling program it dropped on January 1, 2000 or face a lawsuit. According to the Attorney General, Amsterdam became the first municipality in the state to abandon its recycling program, which is required under the Solid Waste Management Act of 1988. Attorney General Press Release (May 1, 2000).

Town May Engage in Limited Tree Cutting on Park Land, According to Attorney General Opinion

According to an informal opinion issued by the New York State Attorney General's office, a municipality may engage in limited and selected cutting of timber on park land to preserve the land and to enhance its use by the public. Proceeds of the timber harvesting must be used for park improvement purposes. The opinion, signed by Assistant Solicitor General James D. Cole, responded to an inquiry from the Town of Deerfield, which proposed to cut trees on parkland it acquired under the Park and Recreation Land Acquisition Act of 1960. Office of the New York State Attorney General, Informal Opinion No. 2000-3 (Apr. 7, 2000).

UPCOMING EVENTS

July 6-12

"American Bar Association 2000 Annual Meeting," New York City. The Section of Environment, Energy, and Resources will be conducting special events, including seminars on the Clean Air Act's new source review requirements and hot topics in environmental law. Information: Program Registrar, (312) 988-5724.

July 12, 2000

"DEC Environmental Justice Advisory Group Public Meeting." Albany, 6-9 pm. Information: Monica Abreu Conley, DEC Environmental Justice Coordinator, at envirju@gw.dec.state.ny.us.

July 13-15, 2000

"New York ReLeaf Statewide Urban and Community Forestry Conference on Expanding Green Partnerships," sponsored by the New York State Urban and Community Forestry Council, DEC, the U.S. Forest Service, and Capital District ReLeaf. Albany. Information: DEC's Bureau of Private Land Services at (518) 457-2475.

WORTH READING

Albert LaFarge, editor, *The Essential William H. Whyte* (Fordham University Press 2000) (includes selections from Mr. Whyte's writings on urban planning).

Benedict J. Monachino, "Courts May Find Individuals Liable

for Environmental Offenses Without Piercing Corporate Shield," *New York State Bar Association Journal*, May 2000, at 22.

New York State Department of Environmental Conservation, Pollution Prevention Unit, "Proceedings of the New York State Eleventh Annual Pollution Prevention Conference" (June 17-19, 1998), 2000.

John R. Nolon, "Smart Growth Localism: A Theoretical Analysis," *New York Law Journal*, Apr. 19, 2000, at 5:2.

Peter S. Palewski, "Environmental Cases in New York Pose Complex Remediation Issues With Profound Impact on Land Values," *New York State Bar Association Journal*, May 2000, at 8.

Brian W. Swinn, "The Hudson Reborn Access Is Improved Along the River," *New York State Conservationist*, Apr. 2000, at 2.

John Waldman, *Heartbeats in the Muck* (The Lyons Press, 2000) (reviews the history, sea life, and environment of New York Harbor).

Funding Local Government Acquisition of Open Lands in New York State Part I

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The term "open lands," as used in this article, refers to lands that communities wish to preserve for any one or more of these objectives. The term "open lands" constitutes more than "undeveloped lands," since it includes land that is dedicated to an economic use such as farming or large lot single-family home development. Open lands are those which have not yet been subdivided into relatively small lots and dedicated to residential, commercial, or industrial use. The preservation of these lands and their open character is one of the few land use objectives found in the State Constitution. It is the policy of New York State to "conserve and protect [the] natural resources and scenic beauty [of the state] and encourage the development and improvement of . . . agricultural lands for the production of food and other agricultural products."²

In most of these communities, the search for ways to preserve open lands includes an analysis of the extensive authority local governments have in New York to limit the development of privately-owned land through land use regulations.³ Recently, communities have sought grant funds from numerous state and federal programs to enable them to purchase the title to these lands or a lesser interest in them such as their "development rights." These fruitful and complicated topics are not explored in this article. The topic addressed here is the financial authority that local governments themselves have to raise revenues to purchase such lands or their development rights. This article explores the sources of local legal authority to spend public funds to purchase interests in open lands, the types of programs that localities in New York have established using this authority, and the particular methods localities have used to raise such

funds. The details of establishing capital reserve funds and purchasing land through the installment sale method are also described. Finally, the article illustrates these methods by discussing the programs established in several communities in New York.

II. Local Authority to Purchase Title or Development Rights in Land

Although municipalities have broad authority to acquire land for a public purpose,⁴ the state legislature has provided specific authority to municipalities purchase open lands or a lesser interest in them.⁵ Means of achieving these policy objectives include the acquisition of title to land, purchasing a lesser interest in land such as a parcel's development rights or even leasing development rights.

A. General Municipal Law Section 247

Most municipalities rely upon General Municipal Law Section 247 for authority to implement an open lands purchase program. Enacted in 1960, the legislature recognized even then that rapid development was threatening lands with significant scenic, aesthetic, or physical value.⁶ As a means of conserving these important resources, the legislature declared that it is in the public interest for any county, city, town, or village to expend public funds "to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve open spaces."⁷ Under Section 247, municipalities may "acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right" in lands defined as "open space."⁸ Open space includes any area that is characterized by natural scenic beauty or whose condition or quality is such that it will either enhance the present or potential value of surrounding developed lands, or enhance the conservation of natural or scenic resources.⁹ Open space also includes agricultural land used in bona fide agricultural production.¹⁰ Given this broad definition, communities have sought to acquire title to, or the development rights of, parcels containing wetlands, habitats, forests, viewsheds, steep slopes, and valuable agricultural soils.

Where a municipality acquires a lesser interest in a parcel of land, such as its development rights, Section 247 directs municipalities to reassess the property value to reflect the limitation placed on the future use of that land.¹¹ This reassessment will reduce an owner's tax burden and is required when a municipality has acquired an interest in real property, such as a conservation easement¹² or restrictive covenant. Additionally, Section 247 provides that any such interest acquired by a municipality is enforceable not only against the original landowner, but also against successors in interest, heirs, and assigns, so long as the municipality's interest is filed on the county land records in accordance with Section 291 of the New York Real Property Law.¹³ The law also states that the municipality's interest in the open lands cannot be defeated due to adverse possession, laches, waiver, any rule of common law, or a change in the character of the surrounding neighborhood.¹⁴

These provisions demonstrate that the development rights validly purchased by a municipality may never be used by the landowner or anyone who acquires a legal interest in the land from that owner.

B. Conservation Easements

Sections 49-0301 through 49-0311 of the Environmental Conservation Law provide additional authority that municipalities may use to purchase the development rights of open lands. This statute permits municipalities to acquire conservation easements for the purpose of conserving, preserving, and protecting the environmental, historical, and cultural resources of the state, including the preservation, development, and improvement of agricultural lands.¹⁵ The law defines a conservation easement as "an easement, covenant, restriction or other interest in real property . . . which limits or restricts the development, management or use of real property . . ."¹⁶ Unless otherwise limited in the instrument creating the conservation easement, the easement is of perpetual duration and can only be extinguished pursuant to Section 49-0307.

By entering into a conservation easement, a landowner receives two primary benefits. First, the landowner is paid for the development restriction unless he or she donates the easement. The landowner typically receives the difference between the value of the land with the development restriction and the value of the land without the development restriction.¹⁷ Second, the landowner can receive certain tax benefits in the form of reduced property taxes or reduced estate taxes.¹⁸ There may be additional income tax advantages when the landowner has donated some or all of the land's development rights to the municipality or a qualified land trust.¹⁹

There are two differences between acquisitions made under the conservation easement provisions of the Environmental Conservation Law and lesser interests in land acquired under Section 247 of the General Municipal Law. A conservation easement can be enforced by a third party named in the instrument creating the easement.²⁰ This allows a municipality to delegate monitoring and enforcement responsibilities under the conservation easement to a land trust or other not-for-profit organization with the legal authority and capacity to do so.²¹ No such flexibility exists under Section 247. Also, under the conservation easement statute, not-for-profit land trusts and conservation organizations may purchase or receive donations of easements directly.²²

III. Local Open Lands Programs

Utilizing the authority discussed above, municipalities are able to develop specific programs to acquire open lands. Programs vary from locality to locality, but generally fall into one of four categories: purchase of title to land, purchase of development rights, lease of development rights, or a combination of these approaches.

A. Purchase of Title

Municipalities may acquire full legal title to a parcel of open

land.²³ To do so, of course, they must (barring a donation) pay the landowner the full market value of the property and make this payment at the time of acquisition. The municipality also assumes full legal responsibility for, and all costs of maintaining, the property. Such acquired open lands are an asset on the books of the local government but are removed fully from the property tax rolls. Because of these direct and indirect costs, municipalities often establish purchase of development rights programs which leave title to open lands in the hands of private owners, allow current land uses to continue, and earn property tax revenues for those uses.

B. Purchase of Development Rights

Under a purchase of development rights ("PDR") program, a municipality pays a landowner for restricting the future use of the land.²⁴ The restriction usually takes the form of a conservation or agricultural easement under which the landowner retains title to the land²⁵ and the municipality gains the right to enforce the restriction that the easement imposes on the land's development. The cost of the development rights is the difference between the value of the land with the development restriction on it and the value of the land for its "highest and best use," which is usually commercial or residential development.²⁶ In exchange for placing the development restriction on the property, the owner receives a number of tax benefits including reduced property taxes and estate taxes.

A PDR program benefits the locality in a number of ways. By purchasing a parcel's development rights, a municipality pays less to preserve open space than it would if it purchased the parcel outright. This permits the municipality to preserve significantly more open land than it could by acquiring full title. Also, the municipality does not take on the responsibility and cost of maintaining the property. Most importantly, by only purchasing a parcel's development rights, the property remains on the municipal tax rolls although at a reduced assessed value.

Although a PDR program involves lower costs to the community, this is not to say that it is inexpensive, particularly in communities facing significant development pressure.²⁷ For example, in Suffolk County, agricultural easements can cost up to \$20,000 an acre.²⁸ Additionally, PDR programs are often unable to keep pace with the demand to sell development rights.²⁹ PDR programs may also result in fragmented land preservation that is "too small and too disconnected to function in the long term as an ecosystem for plant and animal life."³⁰ These observations suggest the use of locally-financed PDR programs to leverage county, state, and federal funds and responsible land use regulation of open lands to preserve significant landscapes in meaningful ways.

C. Lease of Development Rights

A lease of development rights ("LDR") program is one in which a municipality acquires the development rights of a parcel for a period of years rather than perpetually. In exchange for restricting development on his or her property, the landowner receives preferential tax treatment in the form of reduced

property taxes, and a yearly rental payment.³¹ The benefit to the municipality of such a program is that it is able to spread the cost of the easement out over a number of years as opposed to paying for the development rights completely in the first year.³² An additional benefit to the landowner is that he or she retains the possibility of developing the land in the future and thus maintains the property's long-term equity value.³³ The most significant problem with an LDR program, however, is that the land still has the potential to be developed at some future date. Alternatively, the financial benefit of the LDR program to the community can be achieved by using municipal authority to issue installment sale obligations, which is discussed further below.

To date, no community in New York has enacted an LDR program where lease payments are made to the landowner for not developing his or her land. However, at least two communities have created LDR-type programs where, in exchange for preferential tax treatment, a landowner agrees to restrict development on his or her property for a specified period.³⁴ Like an LDR program where the property owner receives a lease payment, under this type of program the property owner restricts development by entering into a conservation easement for a period of years with the municipality.

D. Combination Programs

A municipality may decide to create an open lands program that combines one or more of the above techniques. For example, in addition to leasing development rights in exchange for preferential tax treatment, the Town of Perinton purchases title to open lands with funds derived from penalties and back taxes assessed against landowners who break their conservation easement before the end of the agreed easement period.³⁵

IV. Local Revenue Sources for Open Lands Acquisition

Having provided that municipalities may expend public funds for the acquisition of open lands³⁶ and allowed them to establish various methods of expending these funds, state law provides several methods that municipalities can use to raise funds for this purpose.³⁷

A. Real Property Taxes

Municipalities have been delegated the authority to assess and collect real property taxes under the Real Property Tax Law.³⁸ Property taxes are levies on the value of real estate. Local real property tax revenues may be expended for any valid local purpose under any of the many state statutes that delegate programmatic authority to municipalities, such as the General Municipal Law.

1. Appropriations

Funds collected from property taxes may be used for any public purpose which includes the acquisition of land or development rights as authorized by Section 247 of the General

Municipal Law or Sections 49-0301 to 49-0311 of the Environmental Conservation Law. Under municipalities' budget authority, they can allocate a fixed amount in a given year to purchase title to land or development rights. No referendum is required for the local legislature to allocate the current year's property and other tax revenues for public purposes such as this. Southampton has established a capital reserve fund in its annual operating budget that will raise up to \$800,000 annually for open lands preservation.

2. Bonds

Municipalities are authorized to contract indebtedness for public purposes under Local Finance Law Section 10.00.³⁹ One such public purpose is the acquisition of land or development rights in land as specified by Local Finance Law Section 11.00(21)(a). Indebtedness incurred for land acquisition must be repaid within 30 years.⁴⁰ Under the Local Finance Law indebtedness may take the form of bonds or notes.⁴¹ When bonds or notes are sold, their proceeds are required to be held in a special fund and to be used for the exact purpose for which the bonds were issued. The issuance of municipal bonds may be subject to a voter referendum, depending on the amount of the bond issue, the length of the repayment period, and the purpose for which they are used.

To pay the principal and interest on the sums borrowed from the bond holders, a steady stream of revenue over the bonds' repayment period is necessary. Normally, municipalities use the revenues derived from property taxes to pay the principal and interest due on municipal bonds that were issued for the purchase of open lands or their development rights.⁴²

Municipal bonds are an attractive means of raising needed funds for land acquisition because the municipality receives the capital needed for land acquisition up-front. With this money, a municipality can acquire land or development rights in the present that may become prohibitively expensive in the future if real estate prices escalate dramatically in the community. The municipality then has up to 30 years to repay its obligations under the bonds.

After extensive study of the costs of servicing the residential development permitted on 3600 acres of open lands under local zoning, the Town of Pittsford in 1996 issued a \$9.9 million bond under Section 247 of the General Municipal Law.⁴³ The

proceeds were used to finance the purchase of development rights on 2,000 critically-located acres of undeveloped lands in the community. Most of these acres contain viable agricultural soils and sustain active farming operations.⁴⁴

B. Real Estate Transfer Tax

Funding may also be procured by levying a tax on the sale of real estate in the community. Because there is no general state enabling legislation that permits municipalities to impose such a tax, a municipality must first seek passage of specific enabling legislation from the state legislature pursuant to Municipal Home Rule Law Section 40. Under this provision, the chief executive officer of a municipality⁴⁵ with the concurrence of a majority of the local legislature, or the local legislature itself by a two-thirds vote, may request that the state legislature pass a bill authorizing the imposition of a real estate transfer tax in that specific municipality.⁴⁶ The request must state that a necessity exists for the revenues to be derived by the transfer tax and must recite the facts demonstrating that necessity.⁴⁷ Once approved by the state legislature, the transfer tax must then be approved by local voters through a local referendum. The towns of East Hampton, Riverhead, Shelter Island, Southampton and Southold (the "East End Towns") successfully solicited a state bill to impose a real estate transfer tax that funds the acquisition of open space on the eastern end of Long Island.⁴⁸

C. Sale or Use Tax

Counties may assess and collect local sales and use taxes pursuant to Article 29 of the Tax Law.⁴⁹ Taxes may be placed on a number of items including the sale of tangible personal property, utility services, food and drink, hotel room occupancy, and amusement charges.⁵⁰ The net revenues from these taxes may be used for the acquisition of open lands under certain circumstances.⁵¹ All of the net revenues derived from a county sales or use tax may be set aside for county purposes or distributed to constituent municipalities.⁵² Since a county is permitted to expend county funds for the acquisition of open lands,⁵³ a county can set aside a portion of the net tax proceeds from such taxes for the acquisition of such land. For example, Suffolk County has used this authority to levy a ¼ of a cent sales tax to raise funds for the County Pine Barrens Protection/Clean Drinking Water Protection program.⁵⁴

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¹ The recently released *1997 National Resources Inventory*, a statistically-based survey that assesses the conditions and trends of soil, water, and land use on non-federal lands, indicates that between 1992 and 1997 nearly 16 million acres of open space lands were converted to development. This conversion is occurring at a rate of 3.2 million acres per year. See Natural Resource Conservation Service, *1997 National Resources Inventory: Highlights*, available at <<http://www.nhq.nrcs.usda.gov/land/pubs/97highlights.html>> (visited on Dec. 7, 1999).

² See N.Y. State Const., art. 14, § 4.

³ Other important tools to preserve open space include a municipality's zoning and planning authority (including the authority for clustering, transferring of development rights and enacting conservation overlay zones) as well as the authority to protect and enhance a municipality's physical and visual environment under the Municipal Home Rule Law. See N.Y. Mun. Home Rule Law § 10(1)(ii)(a)(11). (Utilizing this authority, communities have adopted soil conservation laws, steep slope laws, wetlands laws and other natural resource protection laws. For a discussion of local natural resource protection, see Jeffrey P. LeJava, *Local Natural Resource Protection*, Land Use Law Center (1997)).

⁴ See N.Y. Gen. City Law § 20(2); N.Y. Town Law § 64(2); N.Y. Village Law § 1-102(1). See also N.Y. Mun. Home Rule Law § 10(1)(ii)(a)(6).

⁵ See N.Y. Gen. Mun. Law § 247; see also N.Y. Env'tl. Conserv. Law § 49-0301 *et seq.*

⁶ See 1960 N.Y. Laws ch. 945.

⁷ See 1960 N.Y. Laws ch. 945.

⁸ See N.Y. Gen. Mun. Law § 247(2).

⁹ See N.Y. Gen. Mun. Law § 247(1).

¹⁰ See N.Y. Gen. Mun. Law § 247(1).

¹¹ See N.Y. Gen. Mun. Law § 247(3).

¹² For a thorough discussion of conservation easements and land trusts, see Joseph Stinson and Liane Wilson, *Preserving Open Space with Land Trusts and Conservation Easements*, Land Use Law Center (1996), available on L.U.C.A.S. at <<http://www.law.pace.edu/landuse/library/landtrstr.html>>.

¹³ See N.Y. Gen. Mun. Law § 247(4).

¹⁴ See N.Y. Gen. Mun. Law § 247(4).

¹⁵ See N.Y. Env'tl. Conserv. Law § 49-0301.

¹⁶ See N.Y. Env'tl. Conserv. Law § 49-0303(1).

¹⁷ See Sean F. Nolon and Cozata Solloway, *Preserving Our Heritage: Tools to Cultivate Agricultural Preservation in New York State*, 17 Pace L. Rev. 591, 598 (1997) (hereinafter *Heritage*).

¹⁸ For discussions of the tax implications of entering into a conservation easement see the following articles: Henry E. Rodegerdts, *Land Trusts and Agricultural Conservation Easements*, 13 Nat. Resources & Env't 336, 337 (1998) (hereinafter *Land Trusts*); Brenda J. Brown, *Land Preservation Provides Estate Tax Benefits: section 2031(c)*, 17 UCLA J. Env'tl. L. & Pol'y 117 (1999); Karen M. White, "Extra" Tax Benefits for Conservation Easements: A Response to Urban Sprawl, 18 Va. Env'tl. L.J. 103 (1999).

¹⁹ See *id.*

²⁰ See N.Y. Env'tl. Conserv. Law § 49-0305(5) and (6).

²¹ See N.Y. Env'tl. Conserv. Law § 49-0305(5) and (6).

²² See N.Y. Env'tl. Conserv. Law § 49-0303(a).

²³ See N.Y. Gen. Mun. Law § 247. Municipalities cannot purchase title to land under the conservation easement law. See N.Y. Env'tl. Conserv. Law § 49-0303.

²⁴ See American Farmland Trust, *Purchase of Agricultural Easements Fact Sheet* (Sept. 1998).

²⁵ Because the landowner retains title to the land, he or she has the ability to sell the land at some future time, although it remains subject to the easement for its duration. See *Heritage* at 597.

²⁶ See American Farmland Trust, *The Farmland Protection Toolbox Fact Sheet* (Sept. 1998).

²⁷ See American Farmland Trust, *Purchase of Agricultural Easements Fact Sheet* (Sept. 1998).

²⁸ See *Land Trusts* at 336.

²⁹ See American Farmland Trust, *Purchase of Agricultural Easements Fact Sheet* (Sept. 1998).

³⁰ See *Heritage* at 608.

³¹ See *Heritage* at 609.

³² See *Heritage* at 609.

³³ See *Heritage* at 609.

³⁴ See Town Code of the Town of Perinton § 130 (as amended 1998); see also Town Code of the Town of Southampton § 247-16 (as amended 1987).

³⁵ See Town Code of the Town of Perinton § 103-8 (as amended 1978).

³⁶ See, e.g., N.Y. Gen. Mun. Law § 247(2). This subsection states that "[t]he acquisition of interests or rights in real property for the preservation of open spaces and areas shall constitute a public purpose for which public funds may be expended"

³⁷ It is important to note that various actions taken by a municipality to raise and secure funds for open space preservation may be subject to mandatory or permissive referendum. For example, the authorization of the sale of municipal bonds to raise moneys for the purchase of land or interests in land is subject to a permissive referendum where the maturity on the bonds is greater than five years. See N.Y. Local Fin. Law § 35.00. Similarly, the establishment of a capital reserve fund is subject to a permissive referendum if the underlying method used to raise moneys for the fund is subject to a permissive referendum. See N.Y. Gen. Mun. Law § 6-c(4). A complete discussion of which municipal actions are subject to a mandatory or permissive referendum is beyond the scope of this article. Where such referenda are discussed below is based on what actual communities have done with regard to raising funds for open space preservation.

³⁸ See N.Y. Real Prop. Tax Law §§ 101-2016. See also *Crystal v. Syracuse, Dept. of Assessment*, 47 A.D.2d 29, 364 N.Y.S.2d 618 (4th Dept. 1975), *aff'd*, 38 N.Y.2d 883, 346 N.E.2d 546, 382 N.Y.S.2d 745 (1975) (the taxation of real property is authorized solely by statute).

³⁹ See N.Y. Local Fin. Law § 10.00.

⁴⁰ See N.Y. Local Fin. Law § 11(a)(21)(a).

⁴¹ See N.Y. Local Fin. Law § 10.00.

⁴² See American Farmland Trust, *Purchase of Agricultural Easements: Sources of Funding Fact Sheet* (Jan. 1999).

⁴³ See American Farmland Trust, *Call to Action: Farmland Protection Success Stories in the Empire State*, at 21-22 (1998).

⁴⁴ See *id.*

⁴⁵ For a county, the county executive; city and village, the mayor; town, supervisor.

⁴⁶ See N.Y. Mun. Home Rule Law § 40. Importantly, this provision provides that such a request may be made separately by two or more local governments affected by the same bill. See *id.*

⁴⁷ See N.Y. Mun. Home Rule Law § 40.

⁴⁸ See N.Y. Gen. Mun. Law § 64-e.

⁴⁹ See N.Y. Tax Law §§ 1201 through 1263.

⁵⁰ See N.Y. Tax Law § 1210(a) and (b).

⁵¹ For a detailed discussion of how net revenue derived from city or county sale or use taxes may be distributed to municipalities and how these revenues may be used, consult Section 1262(c) and 1262(d) of the Tax Law.

⁵² See N.Y. Tax Law § 1262(a).

⁵³ See N.Y. Gen. Mun. Law § 247(2).

⁵⁴ See *Preserving the East End: The Case for the East End Community Preservation Fund in the Towns of East Hampton, Southampton, Shelter Island, Southold and Riverhead*, at 9 (1998).
