

NYS Senate sparks transferable development rights debate

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Back in 1990, the Commission on the Adirondacks in the Twenty-First Century recommended a plan to protect the backcountry by shifting development to more settled areas around the Park's hamlets.

Under the scheme, owners of backcountry lands would receive transferrable development rights, or TDRs, that could be sold to owners of lands in settled areas. The buyers of TDRs would be allowed to develop their property beyond what otherwise would be allowed under the regulations of the Adirondack Park Agency.

The plan was backed by environmental activists, but the Park's local politicians largely opposed it.

On Tuesday, the State Senate voted 55-5 to approve a bill that would authorize TDRs in the Park. This time, local governments supported the proposal, while environmentalists opposed it.

Dan Mac Entee, a spokesman for Senator Betty Little, who sponsored it, said the bill would funnel development away from the backcountry without reducing the amount of development allowable in the Park as a whole. In effect, he said, it would promote cluster development on a large scale.

"It would encourage some needed development in the Park, but it would do it in a smart and appropriate way," Mac Entee said.

Fred Monroe, executive director of the Adirondack Park Local Government Review Board, backed the bill, contending that more development is needed in areas just outside hamlets. "Many of the hamlets are pretty much built out," he remarked.

Monroe had opposed the TDR scheme proposed by the 1990 commission because it would have allowed landowners to transfer development rights from one part of the Park to another. For example,

a backcountry owner in St. Lawrence County would have been able to sell development rights to a landowner in Warren County. In this scenario, Monroe said, St. Lawrence County would be penalized. Under Little's bill, rights could be transferred only within the same town. Thus, the number of development rights in each town would not change.

John Sheehan, spokesman for the Adirondack Council, said Little's bill is written "in such a way that a landowner could transfer development rights from property he or she does not own," without the permission of the other landowner. Although the council likes the idea of TDRs, he added, "this is not the vehicle we want to use to get there."

Bob Glennon, a former executive director of the Adirondack Park Agency, raised a similar objection in a memo to Assemblyman Robert Sweeney, chairman of the Assembly's Environmental Conservation Committee. The proposal, he said, "appears to be some kind of mini-transfer of development rights scheme, but the language could not be more opaque."

"There is no explanation as to how the scheme would work administratively, nor as to what say, if any, is given to those who lost building rights," Glennon wrote in the memo.

Mac Entee said the bill would not allow one landowner to seize another's development rights without consent.

David Gibson of Adirondack Wild complains the bill lacks mechanisms to ensure that transfers of development rights will be environmentally beneficial. He said the proposal might benefit developers who want additional building rights, but not ordinary landowners. "If it's trying to do TDR, it just fails," he said.

Adirondack Wild, the council, and Glennon, who is on the board of Protect the Adirondacks, also object to a provision in the bill that would eliminate the sixty-day window within which landowners must file APA permits with the county clerk.

Mac Entee said eliminating the deadline would obviate the need for landowners to reapply for a permit if they do not undertake a project right away. He noted that landowners would still need to file the permit before beginning work.

Sheehan contends that the bill would leave a landowner's neighbors and other interested parties, such as municipal planners, in the dark about the future of a piece of property. He said there needs to be a reasonable time frame for filing a permit. "Somewhere between sixty days and never there ought to be a happy medium," he said.

Gibson and Glennon also say the bill would, in effect, give landowners a "perpetual permit" that could not be modified to suit changing circumstances or new regulations.

Although Little sponsored the bill, it came from the governor's office. As of yesterday, it had no Assembly sponsor, and the Adirondack Council is urging the Assembly not to take it up—at least not in the form passed in the Senate.

Even if the two sides differ on this bill, it's a good sign that they agree on the merit of transferrable development rights. In the month or so remaining in the legislative session, wouldn't it be nice if they could modify the proposal to satisfy both environmentalists and local governments?

Sheehan thinks such a compromise is possible. "It would be a big step in that it would allow for voluntary removal of development rights from these [backcountry] landowners," Sheehan said. "It's just another conservation tool that's available. We don't know how many people would take advantage of it."