



NEW YORK STATE SENATOR

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Greenway Indemnification – A Law That Works For Communities

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Hundreds of communities, including 31 in Dutchess County and 24 in Columbia County are now proud members of the Hudson River Valley Greenway. Over the years, many Greenway communities have worked cooperatively to preserve and enhance open spaces as well as cultural and historic sites.

When writing the original law creating the Greenway, I met with numerous municipal leaders throughout the mid-Hudson region. It was clear then, as it is today, that an indemnification clause was essential to providing a level of comfort necessary to encourage communities to join the Greenway Compact. An indemnification clause gives municipalities the armor they need to protect their local taxpayers from costly lawsuits. As negotiations continued, I remained adamant – communities within the Greenway must be guaranteed indemnity in the event of legal actions brought against them as a result of acquisition of land as part of their regional plan or any land use zoning laws. The initial indemnity provision lasted for five years and I have passed legislation to renew it three times. Without this “security blanket” to ensure communities protection against legal actions as a result of land use decisions, the Greenway would not be the success it is today.

For the first time, the indemnification clause I insisted on is being put to the test. In a recent

case, the Town of Milan's comprehensive plan and zoning ordinance updates were declared null and void by a State Supreme Court decision. The Town's comprehensive plan had called for the elimination of mining. A local mining company wanting to locate within the Town sued to overturn the comprehensive plan. Milan invoked the Greenway indemnification provision and the New York State Attorney General has agreed that it is appropriate for his office to represent the Town under the provision.

The Town of Milan's decision to invoke this provision demonstrates the law is working as I intended back in 1991. Without this provision, local taxpayers would bear the burden of the legal costs associated with this challenge. The Greenway has grown to include hundreds of communities in the past 17 years and the Hudson Valley has benefitted immensely. Our region's natural resources, open spaces, historic and cultural sites as well as recreational opportunities have been enhanced with the larger picture in mind. And now we know that the indemnification provision I fought for 17 years ago was definitely worth the fight.