

Now & Next

Real Estate Alert

December 19, 2025

New York Amends Section 881 of Real Property Actions and Proceedings Law

By Ninteretse Jean Pierre

The amendment provides clarity designed to reduce disputes and expedite negotiations of construction access agreements.



What's the impact?

- The amendment lists specific permissible activities, such as surveys, protective equipment, and temporary projections.
- Under the RPAPL § 881 amendment, failure to respond within 60 days after two written notices now counts as denying access.
- Courts may impose conditions such as insurance, notice, and compensation to streamline access agreements.

On December 5, 2025, New York Governor Kathy Hochul signed Senate Bill 3799-C into law, which amends Section 881 of the New York Real Property Actions and Proceedings Law (RPAPL). The amendment modifies the existing statute in three main respects: It clarifies when an adjoining owner is deemed to have denied access; establishes permissible grounds for seeking access to an adjoining property; and sets forth the conditions under which a court may grant a license to enter an adjoining owner's property.

Real Property Actions and Proceedings Law — Section 881

Section 881 of the RPAPL, enacted in 1968, provides a legal pathway for property owners who need temporary access to a neighbor's property to perform construction or repairs when the neighbor refuses to grant such access. Historically, the statute left many issues to be resolved by the courts. The recent amendment reduces the list of those issues.

What does the RPAPL amendment change?

First, the amendment clarifies that an adjoining owner's refusal or failure to respond for more than 60 days after receiving more than one written notice from the party seeking access is deemed denial of access. That denial permits the party seeking access to apply to the court for court-mandated access.

Second, the amendment clarifies permissible purposes for accessing an adjoining property. Those purposes include conducting a pre-construction survey; installing, maintaining, repairing, replacing, and removing monitoring and protective equipment and infrastructure (such as vibration, crack, or optical monitors; sheds, bridges, or netting; scaffolding; and sheeting, shoring, bracing, or underpinning); installing temporary projections or intrusions into adjoining airspace; relocating or modifying chimneys, vents, flues, exhausts, or other rooftop equipment; and construction staging.

Finally, the amendment sets forth the conditions a court may impose when granting a license to access an adjoining property. These conditions may include requiring the party seeking access to provide the adjoining owner with advance notice and relevant project documents (including plans, specifications, surveys, and engineering reports); defining the duration of access; requiring the party seeking access to maintain insurance and to add the adjoining owner as an additional insured; and requiring the party seeking access to compensate the adjoining owner.

Key benefits for urban construction projects

In sum, the amendment to RPAPL § 881 provides much-needed clarity that should reduce disputes and expedite access arrangements for urban construction. By defining when nonresponse constitutes a denial, specifying the core categories of permissible access, and standardizing court-imposed license terms, the statute now closely aligns with how access licenses are negotiated in practice. This alignment should promote earlier, more efficient resolutions between owners and adjoining neighbors, reserving court intervention for truly contested matters, and help projects proceed with greater predictability.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

Ninteretse Jean Pierre

585.263.1262

njeanpierre@nixonpeabody.com