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February 28, 2023

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, New York 12224

Re: New York Housing Compact

Dear Governor Hochul,

The WMOA subcommittee on housing believes that new housing in this region is critically important for the health of our communities. Suburban attitudes about housing development are not the same as they once were. In fact, many Westchester communities are already exceeding your housing targets and many others are working diligently to do so.

We support your desire to make progress on this issue. Unfortunately, we cannot support the Housing Compact in its current form. Without significant changes, it simply will not work.

The suburbs are not monolithic, nor are we merely satellites for New York City. Each of our municipalities has different housing needs and different obstacles to overcome, and no plan will be successful without taking into account the relevant local context. We have shared this context with our state representatives, select members of your team, and the NYS Division of Housing and Community Renewal. We now share highlights of our concerns directly with you, in the hope that you will consider these changes and ensure that the path ahead will be productive.

Transit-Oriented Development (TOD)

The TOD zoning mandate included in the Housing Compact must be removed. Using conservative estimates, the mandated level of density would require us to permit development that would, in many cases, double, triple, and even quadruple the total number of housing units in some of our municipalities. This level of change would require a fundamental re-examination and overhaul of our delivery of public services (schools, traffic, transportation, fire, police, sewers, etc.). Given that the TOD requirements would be exempted from the State Environmental Quality Review process and availed to future developers "as-of-right," we would lose our ability to properly assess potential impact and make the changes necessary to accommodate such a transformation. This would be devastating to the communities we are sworn to serve, and no elected official, in good conscience, can support such an unreasonable approach to community growth.

As an alternative, we recommend adding TOD type zoning as a Preferred Action to achieve Safe Harbor as one of several options related to the growth targets. Many communities have already zoned for TOD with the goal of increasing the opportunity for housing and mixed-use density near train stations and would be receptive to this approach.

As a preferred action, TOD should be more flexible so municipalities could opt to include areas in their "TOD" plan where there is reasonable access to transit as opposed to inside a prescribed ½ mile radius. It should also measure density on a project-by-project basis, instead of measuring

overall density across large swaths of land that would likely encompass areas where lower density housing is more appropriate.

Nuanced Housing Targets

A 3% housing target may not be appropriate for all communities and targets may need to be higher or lower depending on the realities of specific communities. The growth percentage needs to be calibrated to take into account other factors such as:

- Current housing/population density
- Current number of subsidized and income restricted units
- Current cost of housing compared to County average
- Existing local ADU zoning and the number of units built
- Lack of infrastructure affecting a three-year target completion
- Available land for new construction
- NYC East of Hudson Watershed properties and the MS4 General Permit requirements.

Safe Harbor Based on Preferred Actions

Preferred Actions for Safe Harbor should reward rezoning that encourages the development of additional housing and in particular affordable housing. Municipalities should be able to choose from a broad menu to craft a plan that works for each of them. In the end, a municipality should simply be required to demonstrate the ability to increase its housing stock to the target level based on zoning changes. Municipalities should be able to select from a range of potential zoning modification options, including the following:

- Accessory Dwelling Units
- Housing Lot Splits
- Smart Growth Principles
- Adaptive Reuse (this should also be broadened and include conversion of other types of properties, including summer residences to year round affordable homes)
- Transit-Oriented Development
- Affordable Housing Set Asides of More than 10%
- Comprehensive Plans that Include Smart Growth Strategies

Retain SEQRA

SEQRA requirements should be retained but reformed to include streamlined requirements specific to housing development. When SEQRA is working well, it provides important protections and is needed to promote and accomplish the State's agenda for addressing the climate crisis. SEQRA reviews are also used as a tool to require developers to pay "fair share" contributions for mitigating the impact of their projects on municipal infrastructure. When it's not working well, though, it can be used to prevent new developments or slow them down, increasing cost of construction (and the rents needed to offset those costs).

While we agree that the environmental review process could benefit from reform, allowing development to happen without requiring a SEQRA review at all would negatively impact our municipalities, many of which have already been severely affected by flooding caused by unprecedented massive storms. Abandoning SEQRA altogether for housing will also call into question why non-housing related projects need to abide by the process, while stripping municipal leaders of their ability to make good planning decisions.

For the 19 municipalities in the NYC East of Hudson Watershed it is important to note that NYS has ceded legal control to NYC giving them the ability to protect the NYC and lower Westchester County drinking water. It is doubtful this control can be altered without NYC approval. The MS4 General Permit covers a list of environmental requirements pursuant to Article 17 and Article 70 of the Environmental Conservation law which municipalities in the East of Hudson Watershed must comply with.

As-of-Right / Fast Track Approvals Challenges

Requiring that all zoning changes be “as-of-right” development is likely to lead to unfortunate unintended consequences and should be removed from the proposal. We would caution against emboldening developers to cut corners, evade important environmental and social concerns, and ignore local residents and community groups who can suggest important improvements to project proposals. We believe a fast-track approval process that circumvents local authority will create perverse incentives for developers and will deprive municipalities of valuable leverage needed in negotiations.

Timelines

The timeline for implementation is too tight. Each of us has experience with developers who choose to abandon projects due to personal, economic or market conditions unrelated to municipal constraints. In each of these cases the project must start afresh, and the time invested is lost. Municipalities should not be penalized if developers do not follow through on their plans. It is also doubtful the MS4 SPDES General Permit for Stormwater Discharges for Construction Activity GP 0-20-001 would fall under this timeline.

Incentivize the Desired Housing Stock

More incentives should be devised to create what we believe is the desired housing stock. Affordable and senior/supportive housing units should count as 3 units and TOD units should count as 1.5 units. Added flexibility could be granted to municipalities who base their plans on a needs assessment, since some communities may already have an abundance of affordable housing but lack higher-end housing that could benefit their tax base.

We also believe that, in keeping with the goals of the Climate Leadership and Community Protection Act (CLCPA) and Environmental Bond Act, incentives should be created for the construction of sustainably-built projects (Net Zero Energy, LEED, Energy Star Certified, etc.)

Expand Financial Support for Infrastructure

More financial support is needed. In our view, \$250 million is a fraction of the amount required to create the infrastructure this level of housing development necessitates. The current engineering estimate for some municipalities is between \$70,000 and \$100,000 per residential sewer hookup. If only 10% of the 800,000 residences built need new sewer infrastructure or improvements to existing sewer systems that cost is approximately \$5.6B to \$8B. Engineering estimates of the current cost to replace one mile of storm drain is \$1 million and, in a recent bid proposal in southern Westchester, the cost of digging along a state highway to install a sewer line was \$600 to \$800 per foot.

Expanding water and sewer systems, adding parking structures, evaluating and modifying traffic patterns, and adding bike lanes are just a few of the very expensive projects associated with the increase in housing.

In summary, we recommend that each municipality be required to reach a specific target based on a formula that takes into account existing population density and local housing stock and any other overriding considerations (e.g. NY Watershed). The focus should be incentive-based, and municipalities should be rewarded for demonstrating that they are encouraging appropriate and needed development through a broad range of actions. The Safe Harbor provisions should be expanded to recognize these actions.

Legislation like this is best when created in an open, collaborative manner without artificial time constraints. Given the complexity of this challenge, any proposal of this magnitude should be debated and adopted separate from the budget process.

Though we want to support the Housing Compact, we will not be able to do so unless these vital changes are incorporated.

Thank you for your consideration and time.

Regards,

Westchester Municipal Officials Association – Housing Subcommittee

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