



NEW YORK STATE BUILDERS ASSOCIATION, INC

Lewis Dubuque | Executive Vice President

Scott Snyder | President

### **Talking Points for Lobby Day**

NYSBA's Legislative Agenda for 2021 focuses on three main points:

- (1) Promoting homeownership by increasing affordable housing stock for all New Yorkers;
- (2) Addressing the key factors that drive up the cost of housing;
- (3) Encouraging a more business-friendly climate in New York State.

As residents of New York State begin to see some light at the end of the tunnel after a very trying year of a national pandemic, there are still very troubling signs for our housing market.

With skyrocketing material costs, as well as a limited available housing stock, New York State is currently facing a housing affordability crisis.

If one were to compare housing starts in New York, New Jersey and Pennsylvania, the numbers are startling:

- Pennsylvania, which has seven million less people than New York, is averaging almost six thousand more permits a year than our state.
- Pennsylvania has issued 46,645 single-family permits from 2018-2020, whereas New York as issued only 29,568.
- New Jersey, which has half as many residents, is issuing even more single-family permits per year (34,165) than New York.

How is this possible?

The simple answer is that legislative and regulatory actions on the state level have made it incredibly difficult to develop land and build affordable housing in New York State.

Recalcitrant planning and zoning boards, NIMBYism, and onerous, outdated state and local laws have lead to a lack of affordable housing in our once great state.

So what has the state legislature done to help resolve this affordability crisis and housing shortage?

## **Wage Theft Legislation**

Legislation that would make builders responsible for any subcontractors who do not pay their employees, even if the builder pays the subcontractor.

Makes general contractor responsible for work that should be done by the New York State Department of Labor.

Small contractors with minimal capitalization (MWBEs) will be negatively impacted as general contractors will have to carefully prequalify subcontractors to protect their potential liability.

General contractors will have to use payment bonds or letters of credit, which will be difficult for many subcontractors to obtain to protect their interests.

This bill has no monetary limits so it is applicable to a small remodeling contracts as well as a large construction project.

The homeowner will experience increased costs on minor remodeling jobs as a consequence of this bill.

## **Wetland Regulation Expansion**

This legislation expands DEC's regulatory authority over wetlands.

This is done with an over-reaching definition of wetlands of "unusual importance."

The definition of wetland is already murky at best.

All this accomplishes is to shut down more developable land across New York and increase already skyrocketing land costs.

## **Climate Action Council**

Governor has program bill which would require New York State's Energy Code to be more restrictive than the most updated ICC Energy Code.

NYSBA has always maintained housing affordability must be the cornerstone to any efforts to create cleaner and stronger homes.

Any efforts to improve or increase the efficiency or resiliency of the housing stock in New York State should focus on cost-effective, market-driven solutions.

New homes are much more energy-efficient than the existing housing stock.

More stringent energy code requirements for new homes will significantly increase the cost of these homes and harm housing affordability.

This would encourage people to remain in older, less energy-efficient homes.

Incentives, combined with an energy payback, play an important role in providing homeowners a cost-effective way to invest in energy efficiency.

## **Citizen Suit Legislation**

This legislation effectively deputize any environmental activist group to bring lawsuits on behalf of the Department of Environmental Conservation (“DEC”) without any public oversight.

A determined NIMBY group, or for that matter any group, would be able to use the threat of an action to either stall development or as a method for enrichment of a potential plaintiff who foregoes bringing a lawsuit.

An environmental suit authorized by this bill is not constrained by the nature or magnitude of the violation. A technical violation of a rule may be prosecuted under the authority of this statute.

A case which the Attorney General or DEC determined was not of sufficient magnitude to enforce would be subject to a citizens suit. Public officials are charged with the exercise of judgments to protect the public interest.

Without the plaintiff being required to possess a specific stake in the environmental resource which is threatened, enforcement can be used to achieve unrelated objectives.

There are no specific examples of DEC enforcement failures to substantiate the need for deputizing unregulated parties to enforce the environmental statutes.

There is no evidence of the failure of DEC to respond to public requests to investigate or enforce violations of the Environmental Law.

## **Scaffold Law**

Lawmakers refuse to amend New York’s outdated Scaffold Law. New York is the only state in the country that finds general contractors and home builders fully responsible for accidents on job sites, even if the worker did something significant that contributed to his or her own injury (like showing up on the job site impaired by alcohol or marijuana).

This increased risk has increased the cost of general liability insurance between 300%-600%, reduced coverage and driven carriers out of the state.

NYSBA is looking for legislators to sponsor a bill that would provide builders a tax credit on their general liability insurance.

New York State is already at a tipping point when it comes to providing affordable housing for its citizens. It has become perfectly clear to all New Yorkers the importance of the housing industry to our economy.

The New York State Legislature should be encouraging homeownership through legislative and regulatory reforms that address the roadblocks we have described above that are preventing everyone in this state from participating in the American Dream.