



November 29, 2023

**WELCOME HOME WESTCHESTER
STATEWIDE HOUSING RECOMMENDATIONS**

Dear Members of the Hudson Valley Delegation of the New York State Legislature:

As you are aware, the undersigned organizations have joined to lead a strategic partnership known as Welcome Home Westchester and have entered into a formal Memorandum of Understanding to advance their common agenda on the issue of housing. The purpose of the Welcome Home Westchester partnership is to work collaboratively and in coordinated fashion to respond to the severe lack of housing in Westchester County for people at a wide range of income levels by advancing a pro-housing agenda through legislative and regulatory means at the state, county, and local levels.

Despite the need to address our housing shortage rising to the top of the State's legislative agenda in the past two years, the recently concluded legislative session did not advance any meaningful reform. On October 31st, Assemblymembers Burdick and Levenberg hosted a housing symposium at Pace University's Haub Law. The Halloween Housing Symposium brought together representatives from business, nonprofits, community groups, and local elected officials from Westchester's municipalities to workshop the issue. The dialogue reinforced the need for statewide action and yielded a surprising amount of common ground from participants who come to the issue with very different perspectives. Encouraged by the dialogue, we share some positive takeaways, as well as a series of recommendations on how to put the dialogue into action.

The lack of housing in Westchester continues to choke our businesses of talent while driving away the working class and young families. The result will be less economic opportunity and higher local taxes. A housing shortage this dramatic has an overall negative effect on the local economy of Westchester, the ability for the region to remain competitive in attracting new employers who will create new jobs, the ability for existing employers to hire high-quality workers, and the ability for local municipalities and school districts to stabilize the growth of already-high property taxes by restricting the ability of new residents to move in who will share that financial impact.

It is in this spirit that we share with you the following observations and recommendations:

UTILIZE FUNDING FOR INFRASTRUCTURE AS THE MOST IMPORTANT

INDUCEMENT: Nearly every symposium participant recognized the importance of providing funding to municipalities to support the level of new housing supply we need in Westchester. This is the central idea behind the Governor’s Executive Order for Pro-Housing Communities, and it should be the starting point when discussing incentives to produce meaningful pro-housing change at the local level.

All of us are familiar with neighborhood objections to proposed housing applications which quite often raise concerns over roads, parking, sewer, water, and school capacity to beat back the possibility of even context-appropriate smart growth. Some of these concerns are overstated. For example, Hudson Valley Pattern for Progress and our own research has shown that the supermajority of school districts have been losing enrollment over time and the housing developments that have moved forward yield a positive tax benefit for school districts which is greater than the cost of educating any new students. Other concerns hold more validity. Sewer infrastructure is a concern both north of I-287, where the issues around septic use near the watershed, and south of I-287, where some of the infrastructure has been in place for a century, can be particularly thorny.

Sufficient funding for infrastructure improvement grants tied to measurable progress in addressing the statewide housing shortage is a fundamental building block for progress, **and a must in next year’s state budget.** We also recommend additional financial supports for municipalities who can demonstrate they’re moving in the right direction on housing, including:

- Grants to update a municipality’s comprehensive plans.
- Incentive funding to cover the costs of a Generic Environmental Impact Statement (GEIS) for communities that have created a housing growth overlay zone or other rezoning to support increased multifamily.
- Adding an annual bonus on Aid in Incentives for Municipality (AIM) funding tied specifically to achieving pro-housing actions or bringing new housing online.
- Creating additional points or AIM bonuses for achieving key pro-housing milestones, like completing a comprehensive plan update, or achieving a threshold of new units open for sale/rental in a calendar year, particularly if they include a substantial percentage of units that are affordable for 80% AMI or below, and even more for units that are affordable for 50% AMI or below.

REQUIRE COMMUNITIES TO CREATE A LOCAL HOUSING PLAN: Another area of consensus at the symposium was the requirement that every community create a local housing action plan. Municipalities in the room seemed comfortable with the 2020 executive order requiring each local government in New York State to adopt a policing reform plan that will maintain public safety while building mutual trust and respect between police and the communities they serve. There appeared to be similar comfort using that as a model to develop local housing plans.

This policy comports well with the Welcome Home Westchester campaign’s guiding principle that since every community is impacted by housing shortage we now seek to address, every community ought now to determine how they can be part of the solution.

A virtue of local control is that those closest to the community have the best sense of the community’s needs and special conditions and can plan accordingly. However, many communities have comprehensive plans that are decades out of date or barely mention housing. Generic Environmental Impact Studies are rare. Most housing applications are still considered as one-offs, evaluated in isolation, rather than as part of a local plan to address the severe needs for housing while also factoring in infrastructure needs, available lands, the possibility of redevelopment of underutilized buildings, and the specific needs of that community in terms of income levels, housing costs, and at-risk communities. Similarly, although the need for housing is across-the-board, each community need not use the same tools and strategies. There is a place for supportive housing, “starter home” zones, accessory dwelling units, substantial rehabilitation, “missing middle” housing and so much else, and some options may work better in some localities.

Needs assessments, without more, are insufficient. At a minimum, each community should be required to produce a local housing plan to meet the moment, reflecting the needs of the community and local factors established through a preponderance of evidence, rather than the particular concerns of a small number of individuals at a single public hearing. Requiring such plans should include financial support through State grants and other funding sources.

Existing bills that partially take this approach:

[A.2017 \(Thiele\)](#) requires local governments to prepare and adopt an affordable housing plan with public input and update it every five years. (We note that the current version of the bill includes the phrase “character of community,” which is both vague and also has an unfortunate history of being used to justify prohibitions and limitations on housing that cannot be supported on a preponderance of the evidence alone.)

STRONGLY INCENTIVIZE COMPREHENSIVE PLANS WHICH INCLUDE A ROBUST HOUSING ELEMENT: Ideally, a local housing plan would be one element of a comprehensive plan that considers the community holistically. However, this is a large endeavor, and many municipalities lack funding, bandwidth, or expertise to run the whole process. The state should take a leading role with incentives so that more municipalities can employ any of the following options:

1. Funding for adopting comprehensive plan component that furthers one or more housing types that meet local market, social, and environmental needs.
2. Amended SEQRA rule declaring these housing types receive presumptively negative declarations.
3. Create a class of sustainable development projects that are eligible for administrative review and approval and waiver of land use regulations.
4. Provide infrastructure funding to support sustainable development projects.
5. Enhance set-asides of LIHTC and other affordable housing funding.

6. Incentivize housing development through increased eligibility for real property tax abatement, more AIM funding, school funding, and bonus consideration for other relevant state funds.

PROVIDE CERTAINTY OF TIMELINE IN THE SEQRA PROCESS FOR HIGH-VALUE HOUSING PROJECTS: A strong and unanimous refrain from each breakout group at the Halloween Symposium was the need to streamline the State Environmental Quality Review Act (“SEQRA”). The law’s noble underpinnings are designed to protect the environment by avoiding hasty decision-making. But SEQRA has become weaponized by overuse and has morphed into a procedural quicksand of delay. Reform it by creating fast-track consideration for certain classes of development – e.g., housing with a certain level of affordability, housing with certain policy benefits like passive house construction or other climate mitigation features, or housing in a particular valuable zone for redevelopment as part of a Downtown Revitalization Initiative grant. If the state and the municipality have already recognized the value of particular high-impact projects, applications fitting that criteria ought to have a more predictable and reasonable timeframe for review.

Existing bills that partially take this approach:

[A.4933A \(Kelles\) / S.925A \(May\)](#) provides that housing and infill projects where the applicants have been certified by an expert that they do not violate state environmental laws, meet an affordability threshold, and where the application receives certification for sustainable construction techniques, should either have a limited SEQRA review or be deemed exempt from SEQRA.

[A.3111 \(Kelles\) / S.0668 \(May\)](#) provides that qualifying projects with a substantial percentage of low- and moderate-income housing shall receive an up-or-down decision within 40 days of the end of a public hearing on the project, and enumerates a concrete list of factors that would justify a no vote.

PURSUE TRANSIT ORIENTED DEVELOPMENTS WITH LOCAL FACTORS TAKEN INTO ACCOUNT: Although the Governors’ specific proposal on transit-oriented development (“TOD”) became something of a pinata during the 2023 legislative session, the concept does need to be pursued as one of the most high-value ways of increasing housing stock. Increasing housing capacity near public transit hubs and commercial corridors is low hanging fruit. However, there are approaches that would yield better results and less opposition to the blunt circle-drawing as-of-right zones envisioned within last year’s Housing Compact.

For example:

[Massachusetts Transit-Oriented Development law](#) (Sec. 3A of MGL 40A) requires the 170 MBTA communities to submit a plan for an as-of-right TOD density zone within half a mile of transit stations, but allows the local community to pick the zone so long as it is “of reasonable size” rather than hold the entire radius of land to a prescribed density.

[New Jersey's Transit Village Initiative](#) represents another approach. This incentive-only, multi-agency Smart Growth partnership creates incentives for municipalities who meet certain Transit Village Criteria and complete a Transit Village Application. Those so designated receive technical assistance and priority consideration for grant funding by the state agencies that make up the Transit Village Task Force.

CREATE AN ENFORCEMENT MECHANISM: Housing incentives are necessary and valuable. Many of our towns and villages need financial and technical assistance. Unfortunately, incentives alone have a recent history of failure in Westchester. There are ample examples of communities who are simply averse to building new housing of any sort. For the sake of equity among municipalities and to combat historical patterns of housing exclusion and even housing discrimination, some enforcement mechanism will be necessary. Proposed mandates remain controversial. Requiring fact-based decisions need not be.

Examples include:

[A.3111 \(Kelles\) / S.0668 \(May\)](#) creates a state zoning board of appeals to consider applications for low or moderate-income housing development that may have been wrongly rejected at the local level.

[The New Jersey Mt. Laurel Doctrine](#) sets a "Fair Share" percentage goal of housing that must be affordable in each town and allows for enforcement if towns fail to comply with their fair share obligations, including builder's remedy lawsuits and other compliance challenges in court. It does not privilege one type of meeting the housing goal over another but does allow for judicial enforcement if a town falls short.

[Chapter 40B in Massachusetts \(a.k.a. "the Builder's Remedy"\)](#), which similarly sets a fixed percentage of housing units that must be affordable for each municipality. If the municipality is under that goal, and if it has rejected an application for housing, the applicant can appeal that decision to a State Zoning Board of Appeals. If it is empirically determined that the municipality is under its goal, the rejection can be overruled. This policy has been in place since the 1960s. Only a dozen to a couple of dozen cases are brought statewide each year.

Welcome Home Westchester favors a collaborative stakeholder approach to addressing the housing crisis. We believe that it would be a great disservice to our communities, workers, and businesses to endure yet another legislative session without comprehensive statewide housing reform – particularly where neighboring states are moving forward. We urge you to take action.

Very truly yours,

Kate Slevin
Executive Vice President
Regional Plan Association

Jan Fisher
Executive Director
Nonprofit Westchester

Michael N. Romita
President & CEO
Westchester County Association

Tim Foley
CEO and Executive Vice President
The Building & Realty Institute

John Cooney, Jr.
Executive Director
Construction Industry Council

Richard Nightingale
President & CEO
Westhab, Inc.

Rosemarie Noonan
Executive Director
Housing Action Council

Tiffany Zezula
Deputy Director
The Land Use Law Center of Pace University
Elisabeth Haub School of Law

On behalf of the Welcome Home Westchester Campaign