



## NEW YORK STATE ADVOCACY AGENDA 2023

The Westchester County Association (“WCA”) is the county’s professional roundtable. We unite and mobilize business leaders to advance issues and lead initiatives that strengthen our regional economy. Through collaboration, we drive economic vitality, stimulate new business and job creation, and provide our members with the resources and talent they need to grow.

Our members include hundreds of the mid-Hudson region’s foremost organizations in industries as diverse as healthcare, real estate, finance, law, energy, technology, hospitality, higher education, and the nonprofit sector. They collectively employ hundreds of thousands of workers. For greater than 70 years, the WCA has served as the leading independent voice of the professional community.

While the WCA will undertake general business advocacy (responsible budgeting, minimizing tax burden, a light-touch regulatory environment) we herein address more specifically certain top-level priorities consistent with our primary focus areas. This agenda will be revised during the legislative session as individual priorities are introduced and advanced.

For additional information about our advocacy initiatives and policy positions on specific items of interest please contact:

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## HEALTHCARE

The WCA's membership includes hundreds of the region's foremost organizations representing a broad range of industries including healthcare, real estate, finance, law, energy, technology, hospitality, and higher education. One of the WCA's primary focus areas is support for a strong and vibrant healthcare system. Our board members include the heads of every major hospital and healthcare provider in the region. We regularly advocate on behalf of our regional hospitals and healthcare providers, and to expand access to high quality healthcare for our residents and workers.

Healthcare is the largest single economic engine in Westchester County and the surrounding region. Within the lower Hudson Valley alone, our hospitals alone contribute close to \$13 billion in annual economic impact and employ over 54,000 workers. The benefits to the community are both quantitative and qualitative. World class healthcare facilities continuing to expand north of New York City is one of the primary reasons businesses, workers, and residents are attracted to the region.

### **Increase the Medicaid Reimbursement Rate By No Less than 10 Percent**

Our hospitals face daunting financial challenges as they struggle to emerge from the impacts of the Covid-19 pandemic. Although federal funding helped to offset some increases in costs of care due to the pandemic, it did not offset inflationary increases in everything from supplies to wages. Staff costs were particularly impacted by the need to utilize "travelling nurses" whose wages are often over 40% higher than staff nurses. Weak volumes caused by COVID-induced deferral of care also negatively impacted hospitals financially. Increasing the Medicaid reimbursement rate, especially to ensure the ability of facilities and providers to attract a quality workforce and fill gaps that were already existing prior to the pandemic is critical to ensuring the sustainability of our health care infrastructure. **The FY 2022-23 budget included a 1% increase in the reimbursement rate and restoration of a previous 1.5% cut. It had been more than a decade since there had been any increase in rates, and this minimal increase has done little to improve the precarious fiscal health of providers across the state.**

### **Fund Our Healthcare Workforce**

Healthcare workforce shortages continue to grow in virtually every county in New York State. Shortages preexisting the pandemic are now magnified by recently enacted staffing ratio laws for nursing home and hospitals.

- **Direct Workforce Funding** – Last year’s budget included \$1 billion per year for two years for efforts to retain and grow the state’s health care workforce. Maintaining and expanding this funding is a priority to enhance the workforce pipeline and solidify staffing in areas of greatest need. Moreover, it should be specifically directed to providers and should include the flexibility needed to allocate depending on the workforce needs in each of the state’s very diverse regions.
- **Recruitment Initiatives** – We urge the legislature to prioritize workforce recruitment and retention initiatives for the upcoming 2023 legislative session and FY 2024 budget discussions. These initiatives include expanded support for the Workforce Development Initiative and the newly created Office of Workforce Development. Most importantly, additional funding achieved through a successful 1115 federal Medicaid waiver application should be directed toward workforce initiatives designed and implemented with provider input.

### **Make Scope of Practice Flexibility Permanent**

During the pandemic, numerous temporary measures were enacted through executive order that provided scope of practice flexibility among the various health care professions. They should be made permanent. This proved an invaluable tool in ensuring access to services otherwise unavailable due to staffing shortages. Facilities were able to continue to operate their departments, such as radiology, without interruption. The pandemic has proven the efficacy of these flexibility provisions and that they should be made permanent. To ease the state’s long-term workforce shortage issues, every clinician should be allowed to use the fullest extent of her training. More specifically:

- Permit nurses, EMTs, midwives, and non-nursing staff with appropriate training to administer flu and COVID testing, flu and COVID vaccines, and specimen collection under non-patient specific orders
- Permit physicians and nurse practitioners to issue nonpatient specific orders for flu and COVID testing, flu and COVID vaccines, and specimen collection
- Permit EMTs to provide services within their scope of practice in any setting
- Permit nurses to initiate EKGs, blood glucose tests, labs and intravenous lines and pre-procedure pregnancy testing, where clinically indicated.
- Permit individuals who meet federal requirements for performing high complexity testing to perform such testing

### Expand Clinical Simulation Training

Clinical simulation experiences are an integral component of nursing education. Current state law allows for the use of clinical simulation in the nursing curriculum but does not allow the simulation experience to count toward the clinical training hours required to complete a degree program. **A bill introduced last legislative session, S.6717-A/A.7767-A (Passed Senate 2022), would greatly help resolve the statewide nursing shortage.** This legislation would permit one-third of the clinical training required for registered professional nurses, licensed practical nurses and nurse practitioners to be provided in a simulation experience. Nursing programs also could apply to the Education Department for permission to increase the number of simulation hours beyond that threshold. Many states allow up to half of clinical hours to be achieved through simulation training, placing New York at a disadvantage when trying to attract the best and brightest talent.

### Reign In For-Profit Health Insurers

The Covid-19 pandemic illustrated the acute market imbalance between the national for-profit health insurers and those who provide, consume and purchase healthcare services. Hospital margins erode while insurance profits climb. Even though consumers significantly curtailed medical care during the pandemic, insurers continued to collect the same level of premiums. Other insurance industries such as auto insurers gave their customers a break due to decreased level of driving. Not so health insurers. For example, UnitedHealth Group (a Minnesota based company) has reported \$15.35 billion in profit on \$241.4 billion in revenue through the first three quarters of 2022 -- a 16 percent increase in profit and a 12.9 percent increase in revenue over last year. Both are going up and profits are accelerating even faster than revenue.

- **Enact Pay and Pursue Legislation** -- Providers and patients alike are routinely denied or delayed care deemed medically necessary and included as part of a contractual insurance plan. Insurers have intentionally made it part of their profit model to deny and delay payment for claims. By some estimates, an average of \$4.9 million per hospital has been put at risk due to denials. Enacting Pay and pursue legislation would mitigate the cash flow impact to hospitals for withheld payments and ensure that patients receive the treatment they need without delay. Any health plan would still be able to challenge any procedure it believes not medically necessary but would no longer be able to lever its unfair financial advantage by holding hostage caregivers and patients.
- **Enact a Healthcare Reinvestment Act** -- The large national health insurers are often domiciled outside of New York and their significant profits are funneled back to their corporate headquarters and to shareholders. The banking industry is encouraged by law to invest in communities in which they do business through the Community Reinvestment Act. For-profit health insurers should do likewise where they derive significant profit. The reinvestment should be earmarked for technology and capital upgrades, workforce training programs and other community-based health initiatives.



## REAL ESTATE AND HOUSING

The Westchester County Association's 2022-23 real estate agenda is focused on statewide solutions to address local zoning and land use barriers to building the housing we need. Housing development is both good for the local economy and good for the community. It creates jobs and decreases the tax burden for essential services without overly encumbering school systems or stretching the delivery of those services. It integrates people of diverse backgrounds and fosters a sense of shared belonging.

The economic, social, and environmental costs of inadequate housing transcend local boundaries and affect the entire region. This problem is particularly acute in Westchester County and New York City's surrounding suburbs. Although we share this issue with other states, New York stands alone in its inability to marshal statewide solutions. **According to research by the Brookings Institute, NYU's Furman Center and others, as amongst our peers, only New York lacks the statutory tools to promote land-use reform and housing production in its suburban communities. Decades of experience with a piecemeal, jurisdictional approach to the housing crisis has failed to yield the necessary results and we need a statewide fix.**

### HOUSING REFORM

#### Reasonable and Predictive SEQRA Process

The State Environmental Quality Review Act (SEQRA) is creating costly and unjustifiable delays in the development of new housing. Environmental review is the most time-consuming and costly phase of the land use decision-making process. It is also unpredictable and unevenly applied across local jurisdictions. **The WCA supports a streamlined local zoning and land use approval process subject to strict deadlines for qualifying housing developments which include a minimum number of affordable units.** The State should create clear and objective standards for local governments concerning their contribution to regional housing goals and should make development approvals easier for projects which work towards those goals.

Local land use decisions should remain with local governments. However, the state retains the power to set the terms and standards for local review and it should exercise that power to advance statewide goals. Some specific suggestions for SEQRA application:

- Create a streamlined process for projects which meet clear and objective planning standards. Establish a tiered but finite timeline for the municipal application review process depending on whether the review is short-form or long-form and the size of the development. Extensions can be accommodated presuming they are supported by reasonable circumstances with a specific and clear path for process conclusion.
- Reduce the number of topics to review outside of those with direct environmental impacts
- Increase size threshold triggering environmental review
- Exemptions for projects with clear environmental impacts and unlikely to have adverse impacts

- Support appeals process for zoning changes rejected by local governments
- Support “vested rights” reform to prevent zoning changes from negatively impacting developments in process

### **Fact Based Right of Review Legislation**

The housing we need is often delayed or undermined by activist neighborhood groups that will oppose development of any kind which infringes upon a self-proclaimed and unjustified entitlement. Even well-meaning communities can face overwhelming financial and political pressure that prevents them from adopting inclusionary housing policies. Other states which share our housing crisis have passed legislation to great effect. These states require local governments to meet at least a reasonable standard of proof when denying an affordable housing development. For example, Massachusetts’ 40B, 40R, and 40S legislation has led directly to the production of tens of thousands of housing units by creating a useful right of appeal from local zoning decisions and providing funding to municipalities who create mixed-use smart growth districts near transit hubs. Similarly, Connecticut CGS 8-30g legislation places a reasonableness burden on local boards that deny proposals for affordable housing developments.

**The WCA supports legislation establishing a state zoning board of appeal with the authority to review decisions on qualified low-or-moderate income housing applications when found to be unreasonable and not consistent with local needs.** Local decision-making should be retained but must be held accountable when not supported by objective standards and empirical facts.

### **Require Multi-Family Housing Districts in Transit Communities**

**The WCA supported last session’s reform around both Accessory Dwelling Units (ADUs) and Transit Oriented Developments (TODs).** We believe it is possible to adapt these reforms while preserving the critical vestiges of home rule.

Local authorities can retain discretion to establish their own solutions so long as they commit to take action. To wit, any town, village, or municipality with a transit station should be required to have at least one district within reasonable proximity to such transit hub of reasonable size in which multi-family housing is permitted by right without age restrictions and suitable for families with children. Any such district should have a minimum gross density of at least 25 units per acre and be within walking distance of the commuter rail station, subway station, ferry terminal or bus station, as applicable.

This concept has recently been applied in Massachusetts pursuant to Chapter 40 (H5250) is different from the draft transit-oriented development legislation withdrawn last session from the Governor’s executive budget. It does not automatically rezone property near transit hubs with a one-size-fits-all approach but rather retains with local governments the authority to undertake their own zoning decisions.

### **Encourage Hotel and Hospitality Conversion in Westchester**

In 2021, New York became the latest state to pass legislation that seeks to convert distressed hotels or other commercial properties into affordable housing. The Housing our Neighbors with Dignity Act

(HONDA) allocates state financing for the acquisition or conversion of distressed hotels and other commercial properties. This concept should be expanded to encompass Westchester where we have seen the closure of numerous hotels and convention centers in the past several years.

### **OPPOSE “GOOD CAUSE” EVICTION**

The WCA opposes “good cause” eviction or any efforts to create universal rent control. Legislation proposed in recent years – such as last year’s S.3082/A.5573 -- would establish a new regulatory framework for certain rental units and would apply to all market rate rental units statewide. This bill has been introduced on the heels of legislation enacted earlier this year that already includes provisions to protect against unwarranted evictions where the tenant has rightfully called code enforcement or has withheld rent due to unsafe living conditions. Such proposals often include stringent caps on annual rent increases that do not cover basic cost increases or allow for appropriate building maintenance or upgrades; eliminate the efficacy of lease agreements; muddies the process of rent recovery; and restricts the ability of the landlord get the unit back whether it be for repairs or for family. Such legislation also impinges on the development of new housing units, as its provisions would not only apply existing units but also to newly constructed units.



## CLIMATE CHANGE AND SUSTAINABILITY

With passage of the Climate Leadership and Community Protection Act of 2019 (“Climate Act”), New York has embarked on an ambitious state-level effort to address climate change. As required by the Climate Act, the state’s Climate Action Council has circulated a draft scoping plan providing a road map on how to meet the Climate Act’s greenhouse gas emissions reduction targets. The WCA generally supports these efforts. The WCA has published supportive opinion pieces and also launched the region’s first ever sustainability conference. However, by advancing a law without a fulsome understanding of its economic impact, New York has made a policy decision notwithstanding that impact. Moreover, the up-front costs will be largely internal while the benefits diffuse. Accordingly, those costs should not fall presumptively to the private sector. They should be spread widely with state and federal assistance.

Following public comment, the Climate Action Council is due to finalize a scoping plan. Any significant legislation should therefore wait for the Council to complete its work. Timing notwithstanding, certain elements of the draft scoping plan make immediately relevant the following issues.

### **Building Electrification and Conversion will Require Massive State and Federal Funding Mechanisms**

Legislation introduced last session to phase out fossil fuel use in buildings under an accelerated timeline was not successful. That is wise. **Putting aside energy supply and reliability concerns, the WCA does not support an accelerated fossil fuel phase out in buildings absent major funding mechanisms and technical assistance programs tied to the increased costs of construction or conversion.** The Climate Action Council’s Draft Scoping Plan concluded that, at 32 percent, buildings are the single largest contributor to statewide emissions. Particularly with respect to energy reliability concerns, the pace of decarbonization will depend as much on the speed at which the built environment can physically transition from fossil fuels as on the timeline for developing new sources of supply.

In Westchester, while few if any buildings have yet to explore retrofits, new building construction is mostly electric due to the existing Con Edison natural gas moratorium. According to numerous developers in the Hudson Valley, increased costs for new residential construction carry premiums greater than 10 percent project-wide over traditional, fossil fuel-based construction.

Project developers agree that net-zero building construction and conversion will be very expensive. Our information indicates that converting a typical commercial office building would cost upwards of \$45 per GSF even before factoring in contractor mark-ups and contingencies. There are cost differences due to vintage, size, height, and rigging. **Even so, with this simplified calculation, retrofitting many buildings in Westchester would not be supported by any reasonable payback period on its lifecycle.**

**Extrapolating this data to the residential market, the damage would be particularly severe for cooperatives, condominiums, and other buildings housing working class families.**



## **Local Land Use Restrictions Must Be Overcome**

**As with housing, local land use and zoning restrictions often impede the development of small-scale renewables and smart building technologies.** The Climate Action Council's Draft Scoping Plan identifies the need to address local land use restrictions and clean energy siting as one of its goals primarily through public outreach and education. Recent experience in the housing context foreshadows the need for a cohesive statewide approach and a stronger, more proactive legislative hand. This will take a combination of mandates and incentives. Moreover, just as with the dedicated ORES to streamline and expedite the siting of renewable energy supply, New York needs SEQRA workarounds and statewide zoning requirements to create more environmentally favorable projects such as transit-oriented development ("TOD"), multi-family development, and community and small scale solar, wind, battery storage and geothermal projects. For example, existing building roofs, big box stores, and parking lots and garages are all fair game for solar panel retrofits.

Another model that New York State should consider adopting is the federal Telecommunications Act of 1996 (the "TCA"), which does not preempt local zoning authority by its terms. Rather, it prohibits discrimination among wireless providers and prevents a municipality from completely banning wireless facilities within its borders. A similar New York State statute would require municipalities to accommodate appropriately sited alternative energy facilities and provide for expedited appeals of denials which are based on community opposition as opposed to substantial evidence in the written record.



## **BROADBAND AND DIGITAL CONNECTIVITY**

The Westchester County Association regularly convenes a Digital Connectivity and Broadband Working Group comprising broadband companies, government officials and community partners to advance digital connectivity throughout the region designed to enhance economic growth. Westchester County's Office of Economic Development recently released a strategic report concluding that "the digital divide...is a key hurdle in economic development" (Westchester Economic Development Strategy, Recovery & Implementation Plan, Dec 2020). Moreover, a recent NY State comptroller's report illustrates both that there is an overweighted need for broadband infrastructure and connectivity in the mid-Hudson region and that this region is not seeing our share of state grant funding. See <https://www.osc.state.ny.us/reports/availability-access-and-affordability-understanding-broadband-challenges-new-york-state>

Data published in 2019 by the U.S. Census Bureau based upon information developed by the American Communities Survey identifies 40,000 households in Westchester County without an internet subscription. Further, these households are strongly concentrated in impoverished and/or minority neighborhoods. This same data shows a gap in device ownership, or reliance on smartphones only, affecting 20,000 households.

### **Leverage Federal Funding**

The federal government is deploying billions of dollars in post-pandemic stimulus funding focused on improving connectivity. The state should maximize funding opportunities by removing policy barriers inhibiting rapid infrastructure deployment needed for fast and reliable internet service to our businesses and residents.

### **Streamline Regulation and Broadband Construction**

The WCA advocates for pro-broadband state legislation including streamlining permitting of fiber and wireless projects and/or municipal implementation of pro-broadband policies. Layers of duplicative regulations add unnecessary expense to infrastructure build-out. The WCA further opposes the dissemination or amplification of scientifically bogus theories concerning the health impacts of mobile infrastructure which would delay the implementation of 5G technology.

### **Support Legislation Eliminating Certified Survey Requirements for Broadband Infrastructure Builds**

**The WCA supports passage of legislation to repeal the DOT survey law such as last session's bill A.9894 / S.8472.** The State has taken several actions since 2019 which have caused a significant backlog in the deployment of fiber-optic facilities throughout New York State and, as such, have delayed the availability of broadband services to many New York residents and businesses. In 2019, New York

became the first state in the nation to charge fees on fiber cables used for broadband deployment when the fiber is placed on state highway rights-of-way. This fee has since been repealed. However, in 2020, the DOT added a new requirement to the expanded consolidated permit application for the deployment of fiber used for broadband deployment. Specifically, this new requirement requires an applicant to provide certified engineering surveys for all infrastructure (both the applicant's infrastructure and third-party infrastructure) located in the State's own rights-of-way (ROW) -- even when the applicant proposes to install or modify facilities on infrastructure that already exists in the rights-of-way. This unnecessary, costly, and burdensome step adds significant expense and time to the deployment process and there is no reasonable or rational need for such a survey in this circumstance. A better solution is to eliminate all requirements for certified surveys as New York seeks to invest billions towards broadband builds across the State to close the digital divide and to catapult New York toward the top of the list of the states that lead the technology curve. This is particularly true in Westchester, where there exist some 40,000 homes without reliable internet service and where 20,000 homes rely solely on a smartphone for on-line access.

### **Support Digital Equity Initiatives**

The WCA is running innovative projects designed to connect underserved populations to the digital economy. It's Y-Zone digital opportunity zone in Yonkers, N.Y. brings a direct physical presence to the community for digital navigator assistance to enable households to source free or low-cost internet from existing broadband providers and fund new devices and critical tech education. This creates economic opportunity through workforce training and job development, healthcare access, digital banking, and connection to on-line resources.

We advocate for the expansion of statewide programs such as the Statewide Digital Equity Plan to support use of the internet and promote participation in the federal government's Affordable Connectivity Program.