



Written testimony for the Joint Legislative Hearing on Housing for the FY2023 Budget

Submitted by Timothy Foley,
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I am submitting this testimony on the Governor’s budget on behalf of the Building & Realty Institute of Westchester & the Mid-Hudson Region (BRI), which is comprised of members who are homebuilders, remodelers, mixed-use developers, commercial builders, and multifamily apartment owners in Westchester County and the surrounding area.

The proposed \$25 billion, five-year Housing Plan to preserve 100,000 affordable homes in both urban and rural communities, including 10,000 homes with support services for vulnerable populations, combined with a commitment to property tax relief, could very well be a game-changer for high-cost, high-tax communities within Westchester County. We applaud the vision contained within these proposals, some of which would be truly transformative if passed and would greatly help fill the severe housing shortage we face in Westchester.

We particularly commend Governor Hochul for her support for land use reform to make it easier to build **Accessory Dwelling Units (ADUs)** in our communities (Part AA of the Article VII Education, Labor, and Family Assistance bill) and to develop **Transit-Oriented Developments** (Part EE of ELFA) that would perfectly correspond to the “missing middle” of walkable communities which have worked so well in other suburban communities across the county.

I wish to devote most of my testimony to those two proposals specifically. Some members of the legislature may mistakenly believe that these proposals would be deeply unpopular and rejected by the suburban communities that would be most affected. Nothing could be further from the truth. Our organization is part of the Welcome Home Westchester campaign, a multi-stakeholder campaign including housing experts, developers, the business and non-profit communities, faith leaders, and climate activists looking to drive a new conversation. In our region, as well as many others across the state, the cost of continued inaction in the face of outdated and little-understood local land use regulations is simply too high.

Westchester County has been an increasingly unaffordable region to buy or rent a home or an apartment for decades. The 2019 Westchester County Housing Needs Assessment bluntly stated how dire the situation has become. This report states that county wide there are 846 homeless families, 4,523 severely overburdened households, and another 11,703 new housing units needed to keep up with demand.



The housing shortage most significantly affects extremely low-income renters, but also people with disabilities, seniors, large families and the homeless. In particular, families and individuals who face intellectual and developmental disabilities, who need specialized housing with services, have completely inadequate options.

We also know from both local experience and national models that zoning and regulatory burdens that constrain the amount of housing and development in a municipality both exacerbate the affordability concerns and also cause communities to miss out on economic development. The National Association of Home Builders (NAHB) states that a \$1,000 increase in the price of a median-priced new home will further price 153,967 U.S. households out of the market. Simultaneously, studies have confirmed that the economic benefits of creating 1,500 new units of housing, let alone the 12,000+ the county will require to meet its present-day needs, would create 3,198 jobs, \$39.8 million in local and state revenue and provide \$271.2 million in incomes for just a 1-year impact. The continued annual impact of 1,500 units of new housing would be 921 permanent jobs and \$16.4 million for local and state governments.

Westchester is already on the frontlines of adapting to a new reality being driven by the response to climate change. For the past three years, Westchester has been in a natural gas-constrained area. Although advances have been made in adapting clean and green energy technologies, the age of our housing stock and the over-emphasis on the less energy-efficient single-family home model, we face tremendous challenges in meeting the moment. Given that homes and buildings account for 40% of carbon emissions nationwide, tackling our climate crisis has to involve tackling our housing crisis.

The U.S. Environmental Protection Agency (EPA) released a report that underscores the intersection between climate policy and housing policy by looking at “location efficiency” in energy consumption. Simply put, their research demonstrated the strong link between where we live and our likely household energy consumption. In traditional suburban development, the average American home consumes 55% of its total energy not on operating the home but on transportation to and from the home – 132 million British Thermal Units (BTUs) per year, most of it going to automobiles, as compared to 108 million BTUs per year for heating, cooling, lighting, etc. In their comprehensive study of transit-oriented developments which are located within a walkable distance to restaurants, transit, shops, and other services, that same household’s transportation energy consumption per year drops to 39 million BTUs.

Study after study shows that allowing for walkable, mixed-use, mixed-income, and multifamily housing close to public transit is deeply enriching to our environment and our local downtown areas. It also boosts our local economy and is a potential game-changer for young people and families who live and work in Westchester but have trouble finding housing in their price range. It leads to less dependence on cars, more use of public transit, more walkable and revitalized downtown centers, more educational opportunities for children, and entices businesses and jobs to locate near our transit hubs – to say nothing of providing a reliable source of funding and ridership to the Metro-North Railroad that so many Westchester residents rely on. But all too often, these transit-oriented communities get tied up in lengthy review processes or saddled with outdated and climate-unfriendly parking requirements -- which defeats the purpose of decreasing our carbon footprint by not having to rely so heavily on cars.

As with so much else related to housing, there is a racial equity component as well. Ever since the U.S. Supreme Court case *Buchanan v. Warley* in 1917, many innovations in land use and zoning were designed to increase segregation even while maintaining a veneer of race-neutrality. Rigorous political science studies have determined through cross-referencing racial demographics, land use restriction data, and fair housing lawsuits to show that inherent biases against building adequate housing, including even reasonable multifamily developments in many communities, continue to result in housing segregation.

Transit-oriented developments have been shown to be one of the tools to remediating this history of injustice. More diverse housing options around transit stations particularly benefit people who use public transit and who do not own cars, which disproportionately affects the Black, Asian, and Hispanic populations, as well as immigrants, medium-to-lower income residents, and others. They have also proven to help address the needs of these residents by placing housing with easier access to job opportunities, shops, and other services. One of the more stunning revelations in the 2019 Westchester County Needs Assessment is that, despite Westchester's reputation as a commuter community, there are now nearly as many people commuting into Westchester to work from elsewhere as there are commuting out of Westchester each day – in no small part because of the housing affordability struggles in the region.

Part EE would allow as-of-right development of 25 units per acre within an average 10-minute walk of Metro North and other MTA stations. In most Westchester communities, at least 10% of the housing units in these projects would be required to have fixed rents pegged to a certain affordable income level, but they would be spared from parking requirements to encourage public transit use and other climate-friendly alternatives.

Let us take a moment to say what Part EE would not do. It would not end single-family zoning. The house next to Grandma's won't be demolished and replaced by a 10-story apartment building. That's predictable and, to be honest, petulant disinformation. Part EE would also not dramatically alter the demand for or supply of detached single-family homes, bulky McMansions, or mid-to-high rise multi-story apartment buildings. The first two need no incentives – they are already the default for much of the residentially-zoned land in the county. The last is outside the scope of the proposal in Part EE – a ratio of 25 units per acre would produce more housing than current conditions, but far less than if one were to build 50 to 200-unit residential apartment buildings that so draw the ire of NIMBY (“Not In My Back Yard”) locals throughout that acre.

Those 25 units within half a mile of transit stations would be much more likely to take the form of a mixture of single-family homes, duplexes, triplexes, townhouses, bungalow courtyards and other forms of multifamily that are the same approximate height and scale of existing housing within those neighborhoods. By definition, they are the “missing middle” options between single-family homes and mid-to-high rise apartment buildings. They are house-scale buildings intended to be part of low-rise residential neighborhoods, designed to be the same size and footprint as a typical single-family home, but too often prevented from being built by outdated zoning laws.

Municipalities are protective of their land use prerogatives, and it is certainly true that a number of communities can – and have – updated their zoning and their comprehensive plans to incorporate transit-oriented policies or have allowed for variances to enable these developments to take place, for the benefit of their downtowns, their local economies, their climate, and to present new choices and options for seniors, millennials, and working families. But the fact remains that throughout the Metro North Railroad catchment area, it is far easier in most zones within half a mile of the train station to build detached single-family homes, purely commercial buildings, or mid-to-high rise apartment buildings than it is to build more climate-friendly and context-friendly multifamily communities. These developments would blend into a suburban landscape while also offering choices that are desired by seniors looking to downsize and would prefer a walkable community, millennials looking to live near where they grew up but likely to use public transit for everyday travel, historically disadvantaged people of color, and those who are conscious of their own carbon footprint.

More to the point, the half mile radius around transit stations represents a tiny fraction of residentially zoned land in any municipality – the overwhelming majority of that single-family zoning. Part EE involves an incredibly modest intrusion into local land use given the compelling needs of affordability, climate sustainability, and racial justice, and provides in exchange a tremendous amount of common good for our residents and neighbors.

We believe a similar case can be made for accessory dwelling units – another common-sense solution that has already been adapted by a number of municipalities precisely because it increases the supply of affordable housing (with adequate regulations and safeguards) without perceivably altering a suburban neighborhood’s character.

Many other states have turned to accessory dwelling units as a way to provide more affordable housing options while supplementing incomes to middle-class and senior homeowners, providing a boost to local contractors and service-sector employment opportunities, and increasing home values for a sustained boost to the local economy. These can be garage conversions, backyard cottages, converted attics or basement apartments -- any space on an existing lot that can be repurposed into a fully separate living place. With adequate regulations, ADUs are typically unnoticeable from the street, nor do they noticeably transform the neighborhood character of a single-family zone. This proposal would empower local municipalities to shape local rules to fit individual circumstances, ensure that outdated regulations do not unnecessarily stifle accessory dwelling unit creation, and sets reasonable timetables for approval of accessory dwelling units -- reinforcing the role of municipalities in making land use decisions while also requiring them to do their part to allow for the least intrusive way of creating new units of housing.

In addition to supplementing incomes to homeowners, providing a boost to local contractors and increasing home values for a sustained boost to local economies, accessory dwelling unit development will ease the burden of limited options in affordable housing stock. As with transit-oriented developments, the proposal would also exempt ADUs from local multiple dwelling laws and reduce climate-unfriendly parking requirements. There is a racial equity component to this proposal as well. It would direct the creation of a lending program to assist low- and moderate-income homeowners in securing financing for accessory dwelling units, an absolutely critical

policy to ensure the advantages of such legislation benefit communities that have been overlooked far too often by housing policies.

Though it is true that certain residents often make it their mission to clog up public land use buildings by voicing their concerns over any development that increases housing choices, they are neither representative of the residents in that community as a whole, nor have they been able to accurately predict the effects of such development in their town, village or city. Study after study, including a number done specifically in New York, shows an unambiguous net surplus for local property taxes, taking into account both the cost of providing services to these new residents and any capital expenditure made by the municipality to increase capacity. A “look back” study of Long Island communities published last year found no pattern whatsoever between the development of multifamily communities of 150 units or more leading (far more units per acre than would be produced in either of these budget policies) to a cumbersome increase in school children. That same study found that, even when the operational and capital costs of educating any new children was taken into account, each school district saw a net surplus ranging from tens of thousands of dollars to nearly three quarters of a million dollars each year. The vast majority of academic studies over decades have found that affordable housing does not depress neighboring property values and may even raise them in some cases.

In conclusion, with so many mutually reinforcing problems intersecting with the central issue of the difficulties in producing the housing we need, the residents of New York have to look ourselves squarely in the mirror and realize that the “way things have always been done” will yield the same disappointing results in housing affordability, climate justice, and racial justice. We cannot afford to wait for the slow progress of long-outdated local zoning changes to catch up. We believe that not only is state action warranted, it is long past due. We encourage you to fully support ADUs and TODs in the enacted budget this year – our community desperately needs them.

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