

2010: A Year in Review

By JON FLOOD AND MARK KABLACK

The Home Builders Association of Massachusetts (HBAM) concludes the calendar year noting several successes on major policy initiatives in the Commonwealth. The following



is a brief summary of just some of these initiatives. For additional information or to volunteer your time or input on any of these issues, please visit the HBAM website at www.hbama.com, highlighting either the Legislative Update or Public Policy Report menu tabs.

Permit

Extension Act

HBAM was instrumental in lobbying for the Permit Extension Act, part of the Economic Development Reorganization package passed by the Legislature and signed into law by Gov. Deval Patrick this past summer. The Permit Extension Act became effective immediately and provides an automatic two-year extension on almost all permits or approvals in existence between Aug. 15, 2008 and Aug. 15, 2010. The extension terms will provide a major boost to any development project that has been stalled and at risk due to expiring deadlines under existing permits and approvals.

Heralded mostly in response to the national recession and credit crisis, the Permit Extension Act keeps “shovel-ready” projects viable, assisting in new growth and job opportunities for the construction and development industry. The act is also significant in the unique way the Legislature overruled home rule, the typical way permits and approvals are controlled by local municipal boards. HBAM worked with other industry groups, most notably NAIOP,

to get this law passed, and is grateful to Sen. Therese Murray and other legislators who helped secure its passage. HBAM recognized her advocacy for this law in a letter of commendation and a media event on Oct. 13, 2010.

Preservation of Chapter 40B, the Affordable Housing Law

HBAM participated in a broad-based coalition group of civic, business, religious and municipal leaders, together with housing advocates, in the campaign against a ballot question proposing the repeal of Chapter 40B, the state’s affordable housing law. The ballot question would have abolished the law in January 2011, gutting the housing program that has been touted as the most effective current tool for affordable housing production. Chapter 40B has also been noted as a significant permitting source for market-rate housing, and its loss would have impacted 12,000 units of housing that are currently in the construction pipeline. HBAM was firmly committed to keeping 40B on the books and was successful in obtaining NAHB grant funds, used in the initial stages of the campaign. The efforts were handsomely rewarded with near-unanimous support by editorial boards of major newspapers throughout the state, support by all four candidates for governor, and a resounding response at the polls, were the the ballot measure was defeated by almost 60 percent of the vote, far outpacing the voting percentages on all other ballot questions.

An Economic Study on Home Building in Massachusetts

HBAM commissioned a leading NAHB economist, Elliot Eisenberg, to study the economic impacts of home building in Massachusetts, and prepare a report entitled *The Economic Benefits of Home Building in Massachusetts, Jobs, Income and Public Revenue Gen-*

erated. The report specifically analyzes the impacts of single-family housing and residential condominium development on the Massachusetts economy and the direct and indirect impacts on the local (municipal) tax base. Eisenberg presented his report in May 2010 before an audience of business and civic leaders and included favorable media coverage in the *Boston Globe*, the *Boston Business Journal*, this magazine, and other print, radio and web-based media outlets. The report was crucial to our initiative on the Permit Extension Act, and will be a useful, on-going resource to counteract the misperception that home building places a burden on local cities and towns. The full text of the report can be found on the HBAM website, www.hbama.com.

Natural Heritage and Endangered Species Program

HBAM played a significant role in advocating regulatory changes within the NHESP program, for which regulations were formally adopted this fall. The regulatory changes provide for a more open mapping process, with mapping now occurring on a four-year interval basis; protect landowner rights by discouraging unlawful trespass; develop greater permitting certainty; promote standard mitigation guidelines; and improve grandfathering protections for certain building projects. NHESP has also agreed to consider a conservation management plan for the Eastern Box Turtle, complementing current legislative initiatives filed by HBAM, to address alternative arrangements for fostering this species. The regulatory revisions create a series of positive changes for those regulated under the NHESP program. HBAM will continue to monitor the endangered species program and advocate for additional improvements going forward.

Other Legislative and Regulatory Work

HBAM was also successful in thwarting several initiatives that would have had a detrimental impact on the home building industry in Massachusetts. For example, we successfully lobbied against a provision of the Municipal Relief Act that would have enabled municipal tax assessors to assess the future phasing rights of condominium developments. Such taxing authority would have severely impacted larger condominium projects that are often phased in over several years, where future phased units are not currently

subject to assessment. HBAM also successfully lobbied against certain zoning initiatives that would have reduced the eight-year zoning freeze protection for definitive plans and eliminated the so-called "Approval Not Required" process for plan endorsement.

Lastly, HBAM continues to monitor various issues before the Board of Building Regulations and Standards, including consideration of the 8th Edition of the One- and Two-Family Building Code, various initiatives regarding fire detection systems and sprinkler requirements, and the recently adopted Stretch Energy Code.

Jon Flood and Mark Kablack are co-chairs of the Public Policy Committee. Flood is a land and real estate prospector providing services to the commercial, industrial, conservation and energy sectors of the real estate industry, and can be reached at jonflood@comcast.net. Kablack is a principal of M.A. Kablack & Assoc., a Westborough-based real estate law firm specializing in land-use law and real estate development, and can be contacted via his website, www.kablacklaw.com.