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HBAM PUBLIC POLICY ISSUES—WINTER 2010

The Home Builders Association of Massachusetts (HBAM) continues to work on several important policy initiatives on behalf of the residential construction industry 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 Legislative Update or Public Policy Report menu tabs on this site.

Chapter 40B Repeal Effort

The Slow Growth Initiative has renewed efforts to repeal Chapter 40B, amassing the requisite number of signatures in the fall of 2009 to have the repeal initiative submitted to the Massachusetts Legislature. The ballot initiative was referred to the Joint Committee on Housing as H. 4455. Absent legislative approval of the repeal initiative, the repeal group will likely work to finalize a ballot question for the November 2010 election. HBAM is working with a broad coalition of business, civic, religious, affordable housing, environmental, and municipal leaders called The Committee Against Repealing the Housing Law. The committee currently consists of over 100 members and is chaired by Tripp Jones, founder of MassINC. Fundraising efforts are currently underway to help support a vigorous campaign against repeal. You may visit the special website that has been set up for this effort: www.protectaffordablehousing.org. We urge you to support the fight to oppose the repeal of Chapter 40B. HBAM is also monitoring numerous bills that have been filed to amend Chapter 40B and continues to monitor regulatory changes proposed by DHCD.

Permit Extension Act

We have reported recently about this important legislative proposal that would extend for three years most permit and approval deadlines for projects approved between January 1, 2008 and January 1, 2011. The Permit Extension Act is a response to the national recession and credit crisis that has had a devastating impact on residential real estate development. The Act would be a much-needed boost to our industry for those projects that have been stalled due to financial constraints and market conditions. The Act (H. 3647) has received a favorable report from the Joint Committee on Community Development and Small Business and has been referred to the

House Committee on Ways and Means. Growing support for the passage of the Permit Extension Act was evidenced when both Governor Patrick and Senate President Murray included its provisions in separate economic stimulus bills they recently introduced. HBAM has made the Permit Extension Act its highest legislative priority and continues to work with other industry groups to secure its prompt passage.

Stretch Energy Code

The Stretch Energy Code was adopted as an amendment (780 CMR 120.AA) to the State Building Code by the Board of Building Regulations and Standards (BBRS) in the summer of 2009. The Stretch Energy Code allows cities and towns to opt for higher energy efficiency standards in new construction and renovation projects. While HBAM supports green initiatives, we have been opposed to the Stretch Energy Code on several grounds. The Stretch Energy Code erodes the concept of a uniform building code, imposes mandatory efficiency requirements without regard to cost or practicality and overly relies on a third-party HERS rating system. Recently, in part due to HBAM's scrutiny, the BBRS has clarified language in the Stretch Energy Code that its adoption in a city or town is subject to the normal governing procedures dictated by municipal charter. Therefore, passage in a town in Massachusetts will require the full vetting, debate and affirmative vote of Town Meeting. If you are aware of an individual town attempting to adopt the Stretch Energy Code, you should alert local officials of the correct governing procedure and participate in the Town Meeting debate. More details on the Stretch Energy Code can be found on our website.

Zoning Reform Initiatives

We continue to monitor several bills that have been filed with the Joint Committee on Municipalities and Regional Government regarding zoning reform. The Land Use Partnership Act (LUPA) is one such bill that was the product of Governor Patrick's Zoning Reform Task Force. LUPA presents a series of positive and negative implications for our industry. Negative implications include the demise of ANR approval and the reduction of the eight-year plan freeze protection. The so-called Community Preservation Act II is yet another bill that would grant even greater power to cities and towns to stop or control growth. We will continue to monitor and report on any developments regarding these initiatives in the coming months.

Natural Heritage and Endangered Species Program

HBAM testified in support of H. 4167 in October 2009, which if passed, would require a programmatic correction to the Natural Heritage and Endangered Species program to bring it in line with the Massachusetts Endangered Species Act by eliminating priority and estimated habitat mapping. Several individual builder members have been actively involved in this proposed legislation and have also testified on behalf of the bill. HBAM has also continued a series of meetings with officials from the Department of Fish and Game and the Division of Fisheries and Wildlife to advocate for regulatory changes which would foster a more open mapping process, protect landowner rights, develop greater permitting certainty, and improve grandfathering protections. Meetings were held with program staff in December and have continued into 2011. We will continue to press for regulatory revisions that benefit

homebuilders. Separately, our legislative proposal to establish a conservation management plan for the Eastern Box Turtle has received favorable responses from many legislators.

Stormwater and Wetland Regulations

We have previously reported on Department of Environmental Protection's initiatives to revise Massachusetts Stormwater Regulations—which revisions would have significant impacts on new construction and existing developments. Impacts to existing developments (namely, multi-family developments, condominium associations and homeowner associations) have been identified as particularly problematic. Based in part on the efforts of HBAM, DEP has held off on promulgating final regulations. We will continue to monitor developments at DEP on this issue. In the meantime, the U.S. Environmental Protection Agency has issued new Stormwater Rules affecting the MS4 Program for 84 Communities in Massachusetts and the NPDES General Permit. The Army Corps of Engineers (ACOE) has also issued a new Programmatic Permit under the CWA affecting wetlands delineation. More details on the EPA and ACOE action can be found on our website.

Subdivision Roadway Standards

HBAM is participating in a Steering Committee with the Massachusetts Chapter of the American Planning Association in order to develop a Guidebook on Subdivision Roadway Standards. The intent is to make current roadway construction standards more uniform and reflective of the benefits associated with reduced roadway width, increased grade thresholds, and other such modifications. The revised standards will achieve certain "green" initiatives by reducing permeable surface area and site disturbance, and should prove to be significantly more economical for our members. An initial presentation of the Guidebook was given in January at the Massachusetts Municipal Association Annual Meeting at the Hynes Convention Center and a further presentation is planned at the Citizen Planner Training Collaborative at the College of the Holy Cross in Worcester in March.