

Governor Kathy Hochul Proposes New York State Housing Compact

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On January 10, New York Governor Kathy Hochul announced The New York Housing Compact, a series of proposals to grow the housing stock across New York State. The Compact aims to build 800,000 new homes statewide over the next decade through policy reform, government subsidies, and tax incentives. The headline proposals include: 1. minimum housing growth percentages that localities must meet, 2. transit-oriented development through rezoning areas close to train stations, and 3. a successor program to the expired 421a tax incentive. The State would also create a \$250 million subsidy program to help localities pay for infrastructure improvements and planning. The Compact requires passage by the New York State Legislature, where the proposals will likely evolve before becoming law. Goulston & Storrs will continue to monitor the proposals as they move through Albany.

Minimum Housing Stock Growth

The New York State Housing Compact would require all localities in the state to grow their housing stock by predetermined percentages. Jurisdictions in the New York City Metro area, defined as the area serviced by the Metro North commuter railroad, would require 3% growth in the housing stock every 3 years, while Upstate New York would require 1% growth every 3 years. Relatively wide discretion would be left to the individual localities for how to meet this target, with the state granting extra weight to the creation of affordable units in calculating each locality's progress towards the goal. If a locality does not meet their percentage growth goal, the proposal calls for the creation of Fast Track Approval mechanisms where projects that meet minimum density and affordability criteria can be approved at the state, rather than local, level to be built in the following three-year cycle, even if it would not be allowed by existing zoning restrictions. Localities can become exempt from the Fast Track Approval mechanisms if they can prove that there are health or safety related reasons that prevented them from meeting the target, the demand for the new homes in the locality was below the target growth goal, or they created the capacity for housing growth that was not utilized by developers.

Transit Oriented Rezoning

The New York State Housing Compact proposes that localities be required to rezone areas immediately surrounding MTA commuter rail or subway stations to allow for more housing. The proposal would require the areas be rezoned within three years to a yet to be determined minimum density within a half-mile of the train station. Localities could tap into a \$20 million planning fund and a \$250 million infrastructure fund to create plans and infrastructure improvements to support

the increased density. The proposal also calls for expedited environmental review and property tax exemptions for such transit oriented development.

Other Incentives and Changes

The program also calls for the creation, modification and expansion of tax incentives to spur development, such as 1. \$5 million in State Low Income Housing Tax Credits available to middle income projects, 2. changes to the state tax system so that Payment in Lieu of Taxes (PILOT) agreements are not penalized in tax cap calculations, and 3. a successor program to the expired 421a property tax exemption program. Governor Hochul's previous proposal for a 421a replacement, 485w, was not passed by the State Legislature in its most recent session. The Compact also calls for the repeal of the State-imposed residential density limitation on New York City, instead allowing the City to implement its own density requirements. The Compact recommends authorizing the City to make basement apartments legal, growing the \$85 million capital program in the 2023 budget to assist with safety retrofits of such basement units, and a tax subsidy for homeowners that build accessory dwelling units. The Compact also calls for rezoning and incentives to convert office space into new housing stock, with a new property tax exemption for the creation of affordable housing in commercial buildings which are converted to residential.

The State legislature is debating other housing bills besides the Compact proposals in the upcoming session. State Senator Brad Hoylman-Sigal has proposed a more robust rezoning bill that mirrors similar laws recently passed in Oregon and California. The bill would prohibit cities and villages from setting minimum lot sizes above 1,200 square feet, prohibit towns from setting minimum lot sizes above 5,000 square feet with a water/sewer connection and 20,000 square feet without one, legalize fourplexes in cities, ban localities from requiring off-street parking, and allow for six-family units in cities and villages close to train stations.

We are all seeing increased interest in converting under-utilized and vacant office into mixed use, residential and lodging uses – both from the public sector as a policy initiative to stabilize central business districts and increase housing supply, and from the private sector as an opportunity to take advantage of distressed assets. Goulston & Storrs will continue to monitor the various legal tools being developed to facilitate these conversions.