

Home Builders Association of
Northern Kentucky

2009

Community, Housing and Land Use Policies



Builders do not just build homes. They build communities. Northern Kentucky benefits both economically and socially from the construction of new homes. The recent softening of the housing market has demonstrated first-hand the crucial role that a healthy residential construction industry plays in the region. The decrease in residential construction activity has affected all aspects of the community - both public and private. Less property tax revenue has negatively impacted the budgets of local governments, schools and public services as a whole. Unfortunately, this downturn has also curtailed local business activity and added to the increase in the area's unemployment rate. Rising housing foreclosures have led to family hardships and neighborhood blight. Re-establishing and maintaining a healthy housing market is critically important to Northern Kentucky's future. New home construction creates new jobs, new tax revenue and new business income. In many ways, "the home" serves as the mortar supporting the social fabric of our communities. These policies stipulate our philosophy on several current issues impacting "the home" and the important economic and social benefits that require its future viability. Quality, affordable homes are necessary to sustainable economic growth and ultimately to the high quality of life that Northern Kentuckians enjoy.

*HBA of Northern Kentucky
2751 Circleport Drive,
Erlanger, KY 41018
(859) 331-9500, www.hbanky.com*

Economic Development: Builders have traditionally responded to consumer desires for housing by providing the type and the location consumers desire. Builders don't create the desire, they respond to it. The continued growth and development of Northern Kentucky has dramatically increased the economic prosperity and job opportunities of its citizens, increased tax revenues for local governments and improved schools, parks and other beneficial amenities. Removing local barriers to allow innovative land-use planning techniques to be used in building higher density and mixed-use developments, as well as infill developments in suburban and urban areas is desirable. However, resistance from community groups over increased density and mixed-use developments makes this goal extremely difficult for builders and developers. Too often, zoning commissions and political officials buckle under pressure from community and environmental groups that band together to oppose such projects. Planning for continued growth and development should be done in a timely, orderly and predictable manner. Constructing new infrastructure, schools, roads and sewer treatment facilities in a timely manner is necessary to keep pace with the current and future demand for housing and is critical to the overall economic prosperity of the Northern Kentucky region. Broad-based approaches should be used to underwrite the costs of infrastructure investments that benefit the entire region. Smart growth is planning realistically for future growth, not slowing growth or implementing housing moratoriums to stop growth.

Economic Recovery: The national, state and local economy is in the midst of one of the worst recessions in history. Lack of consumer confidence has greatly reduced spending on consumer and durable goods. Past history has shown that housing expenditures lead economic recovery. Congress should act quickly to improve consumer confidence by implementing the measures included in the "Fix Housing First" initiative. The initiative specifically calls for the implementation of a temporary home buyer tax credit (similar to the 1974 and 1975 programs); ability of a buyer to use the credit up-front without repayment; implementation of a short-term interest-rate buy-down and a permanent increase of the FHA/GSE loan limits.

Building Codes: Codes, standards and zoning should assure the health and safety of building occupants using the most cost-effective procedures and guidelines. Codes and standards should be developed in an open and consensus-based process, utilizing the balanced resources of the community and traditionally accepted international models. The Kentucky Residential Code should be interpreted and applied universally throughout the region. A uniform housing rehabilitation code should be adopted by the legislature to encourage renovations in urban areas. Those who adopt code changes should recognize that new regulations typically increase the price of a home and can result in significant changes to the architecture of a home. Code changes should be based on verifiable health and safety issues affecting building occupants and not based on giving specific commercial manufacturers a competitive advantage in the marketplace.

Certificates of Occupancy (CO) should be issued once an applicant has met the requirements stipulated in the KRC or KBC. Additional arbitrary measures including requirements of the applicant to provide a list of subcontractor EIN numbers or ensuring proof of payment of subcontractor business license fees, prior to issuance of a CO, are strongly opposed by the HBA of Northern Kentucky and should be considered acts outside of a government agency's authority.

Environment: Administration and enforcement of wetlands protection, the Clean Water Act, the Endangered Species Act, and the Essential Fish Habitat should protect the rights of private property owners and take into consideration the economic ramifications of such enforcement in an effort to develop a reasonably balanced, scientifically-based application in the Northern Kentucky area. Enforcement of all environmental policies should be streamlined and administered by a single state or federal agency. Government officials and environmental groups should recognize that, according to studies, over the course of the past three decades, our air and water are cleaner; our environment is healthier and is projected to continually improve.

Sanitation: Adequate planning and financing, and implementation of sewage treatment facilities, are essential to the growth and development of a healthy and economically stable Northern Kentucky region. Best management practices should be used to determine sites for future implementation purposes. The rights of private property owners should be addressed fairly in all site decisions. New development usage assessments should be based exclusively on the cost of the service and budgeted specifically for such service. Fees collected from the development community should not be utilized to finance unrelated operations of the district. Completion of the Western Treatment Plant should be a priority to ensure the health, safety and economic well being of all the citizens of the region.

Sediment & Erosion Control: Storm water management should be administered at a regional level and based on best management practices. The Commonwealth of Kentucky should comply with the regulations necessary to once again grant the Division of Water the ability to administer the National Pollutant Discharge Elimination System (NPDES) under the Clean Water Act, on behalf of the EPA. To avoid undue risks to Kentucky contractors, the Kentucky Energy & Environment Resources Cabinet should provide the necessary means to insure timely review and renewal of future NPDES permits. New permits should not impose undue burden on affected parties. Implementation of storm water regulations should be balanced and take into consideration the overall economic impact of any policies. Sanitation District #1 is the proper vehicle for implementation and oversight of these regulations. Enforcement of sediment and erosion control regulations should be based more on ensuring that best practices are followed and less on paperwork compliance. All local jurisdictions within the service area of the district should rely exclusively on the district for onsite compliance. Separate inspections and enforcement activities currently conducted by some counties and cities have led to compliance uncertainties, as well as overlap. All fees collected for implementation of the Storm Water Management Program should be used exclusively for the operation of this program. An audit of all program fees should be conducted annually. The considerable impact of land disturbance erosion caused by agricultural, public utility and state road contractors should also be addressed in any regulations. The development community already pays its fair share of storm water management fees and should not be subject to additional fees due to the adverse impacts on the environment caused by these entities.

Property Rights: Property owners should be justly compensated for reductions in the value of their property caused by government legislation, regulation, and special taxing districts, and should have faster and easier access to a federal court review on takings issues. Local government planning efforts should take into consideration any adverse impact that proposed land planning decisions may have on private property ownership.

Eminent Domain: The exercise of eminent domain by government to acquire land should always satisfy federal constitutional requirements. Proper planning should always precede the exercise of eminent domain and just compensation should be provided. The Government should not utilize eminent domain to acquire private land for private use.

Land Development: Cost-effective, environmentally sound land use and development require equitable land-use policies, affordable approaches to infrastructure financing, and reasonable development standards. They require balanced and sound environmental and land use regulations that respect the rights of Northern Kentucky property owners as an essential element in a balanced approach. Any and all land-use policies should be developed and administered locally and provide flexibility and balance, taking into consideration the overall ramifications on growth and development in Northern Kentucky. Litigation is the least desirable approach to obtain development approval but may be necessary if the traditional process becomes overly politicized and planning commission demands become unrealistic.

Historic Preservation: Historic property regulations should be reasonable and stipulated in existing building and housing codes where appropriate. Historic designations should not be made simply to stop demolition of deteriorated buildings that have no historical significance. State rehab tax credits should be provided to older properties in neighborhoods that have been targeted by cities for reinvestment.

Impact Fees/Property Taxes: Financing of parks and other off-site projects or infrastructure needs that service the entire community, or a large tract of a community, should be done utilizing a broad-based funding approach rather than through impact fees. Property taxes should be fair and reasonable and assessments should be based on the fair market value of a property. County Property Valuation Administrators should be permitted by state law to make adjustments to assessments on developed lots that have not been sold and are not fully utilizing public services. Infrastructure financing alternatives should be evaluated and implemented. The cost structure of public services should be reasonable.

Plan Review/Building Permit Fees: The HBA of Northern Kentucky supports passage of model state legislation that would establish standards and require an annual audit of planning agencies and other government entities that implement local or regional plan review and permit fees, to ensure that the amounts are justified.

Urban Growth/Service Boundaries: Urban growth/service boundaries should not be used to restrict suburban growth or the availability of public services in any Northern Kentucky county. Such boundaries lead to an increase in housing prices, economic segregation and stagnation of communities.

Planning & Zoning: Too often, local planning and zoning regulations have stressed a separation of housing types instead of a mix. Zoning has failed to create the integration of housing types that result in socially and economically well-rounded neighborhoods. Planning and zoning should be redirected to determine how to meet the housing needs of the citizens, with less reliance upon regulation and control. All planning decisions should be made at the regional or local level, utilizing a comprehensive land-use plan and zoning regulations that are consistent with the plan. Every comprehensive plan should include a housing component that addresses the need for future housing in the community. The state and federal government should be discouraged from forcing local communities and regions to adopt model-zoning (i.e. "one size fits all") regulations. Third-party zoning petitions from groups who have no ownership of a subject property, or who do not own property that adjoins the subject property, should not be permitted in any community. Local and regional planning and zoning officials should be provided training to ensure a thorough understanding of the economic factors and community issues that impact builders and the development process. Planning and zoning should focus on consumer preferences and lifestyle choices. The approval process should be determined by the quality of a plan and open collaboration between the developer, planning commission, planners and residents. Developers should be provided a written copy of the staff comments on the proposed project a minimum of 48 hours prior to the public hearing. Planning and zoning does not need to be an adversarial process.

Hillside Development: The HBA of Northern Kentucky is opposed to the passage of any additional regulations that specifically target hillside development. **Light Rail:** According to OKI and other national studies, implementation of a light rail system would be extremely expensive and public use would be limited. Better utilization of buses, including more stops, rapid bus service at peak commuter periods, as well as the increased use of suburban shuttles, is much less expensive and provides greater mobility than light rail. Any proposed regional light rail system should keep in mind these types of studies.

Air Travel/Noise: The Greater Cincinnati/Northern Kentucky International Airport is a major asset in the region and should be supported by the community to ensure that future air travel needs in the region are met. This effort will require additional runway capacity, expanded terminals, improved airport roadway access and more airline services. Air noise suppression and fare competition should also be a part of any future airport growth discussions. Landowners should not be required by government to assume liability for airport noise contour disclosures when such areas are many times uncertain and frequently subject to change.

Open Space Preservation: Public land acquisition by local governments should be part of the comprehensive planning process, rather than determined in piecemeal fashion. Any purchase of public land should be for public use and the owners should be justly compensated. Landowners should be able to donate existing cemeteries to the local government as open space. Such preservation efforts should serve to meet the recreational needs of the community. The local government's desire for open space should be balanced with the needs of future residential, commercial and industrial land use. Land near major roads, schools and employment centers should be reserved for future development purposes and should be excluded from land preservation plans. Land preservation plans should not be used as a means to control private development or to remove land already in the permit approval process. Broad-based taxes, approved through ballot initiatives, are the appropriate vehicle for obtaining open space for recreational purposes that benefit a community. Conservation easements, property tax subsidies and other publicly funded methods of obtaining open space, which exclusively benefit individual landowners but are funded by the public at large, should be avoided. Private land trusts funded by direct land gifts or private fundraising campaigns are also an excellent way for communities to obtain open space. Community land trusts have also been used successfully in areas where land prices have escalated to both preserve open space and to reserve land for affordable housing opportunities. Preservation efforts should not be used as a tool to curtail growth.

Transportation: Homebuilders currently build all residential streets and commercial infrastructure necessary for new development. Automobiles are a necessary part of most peoples' lives and give them the freedom that they want and deserve. Northern Kentucky has the second largest population in the state and provides a large portion of the Commonwealth's transportation funds. Yet, it only receives a small portion of the state's road projects. Northern

Kentuckians deserve to have more of their taxes appropriated for current road repairs and new road construction. The so-called “Rule of 5ths” state road funding approach is antiquated and should be eliminated and replaced with a new funding formula that provides greater revenues to regions of the Commonwealth where the majority of new job growth is occurring. A regional transportation plan to accommodate the inevitable increase in automobile demand, which will reduce traffic congestion and air pollution while improving the quality of life in Northern Kentucky, should be included in all county comprehensive plans. Local governments should work together with residents to petition the state government for more road funds to improve the flow of traffic in the region. Strategies should include additional roadway capacity and the use of existing roadways more efficiently. Interstate highways and arterial roads should be built to serve Northern Kentucky’s growing suburban areas. Completion of a cross-county (i.e. east-west) regional highway (linking the southern parts of Campbell, Kenton and Boone counties) on the drawing board of the Kentucky Transportation Cabinet should continue to be a high priority. Construction of a new Brent Spence (I-75/I-71) Bridge and the upgrading of all interchanges along the I-75/I-71/I-275/ I-471 corridors should begin in earnest. Intelligent transportation systems should be implemented to improve traffic movement in high-use areas. Additionally, funds should be appropriated to eliminate existing traffic bottlenecks, which would decrease air pollution significantly. The inability of a government jurisdiction to adequately plan for road improvements should not be used as a means to curtail growth. Improvements should be planned for areas where people will want to live and businesses will want to locate. Such improvements are vital to the economic development of this region.

Brownfields: Congress and the Environmental Protection Agency (EPA) should be urged to provide funding to Kentucky for identification and clean-up of existing brownfield sites so that they may be used for infill housing. Developers who voluntarily reinvest in these sites should be immune from any future liability claims. All brownfields clean-up programs should be administered at the state level. Congress should be urged to develop a federal definition for brownfields that differentiates it from a Superfund site.

Streams and Wetlands: All stream and wetlands legislation should be based on scientific facts, rather than speculation, utilizing hydrology, soils and vegetation. The permitting process should be administered by a single agency, which will decrease costs and delays. The US Army Corps of Engineers’ jurisdiction should be reassessed to encompass the truly navigable waters of the United States.

Fair Housing: State and federal fair housing laws should be enforced equally in all communities to ensure that all persons have the same opportunities. The HBA of Northern Kentucky is committed to increasing the availability of quality, affordable housing to all persons in the region and supports the provisions outlined in the Voluntary Affirmative Marketing Agreement (VAMA) developed by HUD.

Immigration: Comprehensive immigration reform is critical to the country’s safety and economic health. The HBA of Northern Kentucky supports the enforcement of federal and state employment laws as they pertain to undocumented workers. Employers in the construction industry have a responsibility to ensure that all their employees are eligible to work in the U.S. HBA members are urged to utilize the Association’s Master Subcontractor Agreement when contracting with subcontractors. A “Guest Worker” program for foreign-born individuals should be implemented to allow additional workers to meet the needs of the expanding economy. Currently, the number of permissible work visas is far short of the economic demands for entry-level labor. Guest workers should be held to the same standards as U.S. workers including payment of all taxes and other fees.

Construction Liability: Building codes and standards should assure the safety and health of building occupants. State construction-defect liability laws should not exceed one year from the date of occupancy, similar to other consumer laws. Kentucky’s current 10-year statute is excessive and leads to unnecessary actions brought against contractors for damages that may have resulted from an occupant’s failure to properly maintain a building.

State Taxes: Northern Kentucky should receive a greater portion of tax revenue collected from the region. It is estimated that less than 50 percent of revenues sent to Frankfort are returned for regional projects. Taxpayers deserve to have more tax dollars reinvested in regional infrastructure that fuels further economic development. State tax reform should include additional amendments to the current Alternative Minimum Calculation on Limited Liability Companies, the re-establishment of the previous pass-through provisions and a small business tax credit.

Additionally, local governments in the state should be granted the authority to generate capital project revenues through the implementation of local option taxes, upon voter approval.

Inclusionary Zoning: This type of regulation requires a certain percentage of all residential units in a development to be priced at a level that is affordable to persons in certain low-income ranges and to stay in that price range for a determined number of years. These types of local regulations have forced buyers to subsidize lower-priced units, thus artificially raising prices on the other market-rate units in a development. This also tends to limit the amount of potential equity that could be generated on the subsidized homes. Additionally, these policies limit the pool of potential buyers to whom these homes can be re-sold. Inclusionary zoning in any form should be discouraged. We believe that the most effective way of reducing the cost of housing is to reduce the regulations that artificially increase overall costs. Communities should provide zoning to encourage the market forces to build more entry-level homes. A wide range of housing choices should be made available in all communities throughout Northern Kentucky. They should be determined solely by market conditions, not government-instilled percentage requirements. We support the passage of state legislation that would require a cost/benefit analysis on any proposed government regulation that would impact housing in Kentucky. Homebuying opportunities should be available to those in the working and public-sector class, including police officers, firefighters, teachers and plant workers.

Housing: Homebuilding and residential development is a vital player in the economic development of this region. It is estimated that the production of housing and the value of housing-related products and services account for about 14 percent of the Country's Gross Domestic Product (GDP). This community needs a growing population and a quality, diverse housing stock so companies will want to invest here. This investment will occur if companies can draw on a large and diverse employee and consumer pool. This community draws significant economic benefit from the homebuilding and development activities themselves, as well as from the economic activity created through businesses locating near large employee and consumer pools. A study conducted by the Housing Policy Department of National Association of Home Builders in 2007 indicated that \$380.2 million in new local income, \$25.7 million in new local tax revenue and 7,483 jobs resulted from the 2,349 single-family homes built in the Northern Kentucky region in the previous year. The region also realizes the annual recurring economic impact of these new homes for many years into the future. All efforts should be made to ensure that businesses will want to continue to locate and expand in this region and that people will want to live here. People should have the right to be able to live in the community in which they work.

Fees and Mandates: Government authorities should recognize that fees and mandates, no matter how necessary or desirable, adds approximately 20 -30 percent to the price of a home. Every \$1,000 increase in the price of a home causes hundreds of potential homebuyers in the region to be unable to afford a home. Every fee and mandate should be evaluated based on its impact on home prices and the availability of workforce housing.

Green Building: Home builders have incorporated various aspects of environmental considerations into their current construction practices for many years. Green building is the term identified with holistically incorporating environmentally friendly building practices into all phases of new home construction. This includes site design, land development, as well as including energy efficient construction materials and appliances. The National Association of Home Builders voluntary Green Building Guidelines, administered by Green Build Kentucky, provides the most practical prescriptive approach to implement these practices in new housing. On the contrary, Many other green building initiatives are complicated, expensive and dramatically increase the overall costs of new homes.

Fire Sprinklers: Changes in residential construction technology, improved building code requirements, as well as consumer behavior, have caused the number of fatal home fires to drop dramatically in the last 20 years. More specifically, the widespread installation of residential smoke alarm systems has had a positive impact on lowering fatal home fires. Today most fatal house fires occur in housing that does not have working smoke alarms. Recently, the International Code Council approved language that will be included in the 2009 IRC that will require sprinklers in new one and two-family homes. The HBA of Northern Kentucky is opposed to adoption of this measure as an amendment to any future Kentucky Residential Code. Such mandates will have an unreasonable impact on housing affordability and are not the solution to the further reduction of fire fatalities. More lives can be saved through increased education and other efforts such as ensuring that every home has and maintains working smoke alarms. It's estimated that mandatory fire sprinklers will add approximately \$5,000 to \$10,000 to the cost of a home.

Tax Increment Financing: Kentucky's current Tax Increment Financing (TIF) law authorizes cities and counties to capture the incremental tax increases from development within a designated district and to use those revenues to improve public infrastructure that serves the district. Unfortunately, the current legislation (HB549) does not permit TIFs to be used in high-growth areas where infrastructure improvements are badly needed. Kentucky's TIF law should be further amended to permit greater latitude by local governments to utilize this alternative infrastructure financing tool to build roads and other public infrastructure projects in high-growth areas.

About the Home Builders Association of Northern Kentucky

Founded in Covington in 1955, today it represents over 1, 300 companies and 20,000 persons engaged in the construction industry in a 12-county area.

Revised December 2008