

WHITEMAN  
OSTERMAN  
& HANNA LLP

Attorneys at Law  
*www.woh.com*

One Commerce Plaza  
Albany, New York 12260  
518.487.7600 phone  
518.487.7777 fax

William Y. Crowell III  
Partner  
518.487.7677 phone  
[wcrowell@woh.com](mailto:wcrowell@woh.com)

February 22, 2010

RE: AN ACT to amend the real property tax law and the real property law, in relation to the assessment of condominiums and cooperatives.

A.9790 (Galef)  
S.256 (Little)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the New York State Builders Association

This memorandum is submitted in opposition to the subject legislation on behalf of our client the New York State Builders Association. This bill would eliminate the current assessment methodology applied to condominium and cooperative units located outside the City of New York and Nassau County.

Under existing law there is a limitation placed on the assessment of condos and co-ops so that the aggregate assessment of the units would not exceed the total valuation of the property if it were assessed as one parcel.

This bill would result in significant tax increases for residents of newly constructed condos and co-ops. This is a significant policy reversal with steep tax increases for newly constructed co-ops and condos as a consequence. This tax change would negatively impact the marketability of co-ops and condos and creates a significant disincentive to this type of ownership.

Condominiums and cooperatives were accorded different treatment in part because such developments require fewer municipal services. The infrastructure in condo and co-op developments is generally privately owned. The roads, sewers, water lines, sidewalks and other infrastructure are owned and maintained by the homeowners association. Unlike other subdivision developments where such infrastructure is typically dedicated to the municipality which then assumes ownership and maintenance responsibilities, condo and co-op owners are charged monthly fees to cover any costs connected with maintenance and replacement of such infrastructure, so the municipality does not have any responsibility.

These co-op and condo developments should be encouraged because the increased density of such developments is in accord with the principles of smart growth. These residents are subject to space constraints that individual homeowners don't have. These developments make more efficient use of land to provide for increased green space. The real property tax treatment of co-op and condo units recognizes the additional burdens assumed by unit owners and the benefit to the community where such units are located, as well as the different nature of ownership interests.

The effective date of January 1, 2011 might adversely impact developments that are under construction but fail to have a certificate of occupancy on that date. This creates a situation where financing and saleability are predicated on the application of current law.

Finally, concerns have been raised about so-called "patio homes" as creating an unfairness but this applies without limitation to all condominium and co-op units.

For the foregoing reasons, it is respectfully requested that this legislation be defeated.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Whiteman Osterman & Hanna LLP".

WHITEMAN OSTERMAN & HANNA LLP

Legislative Counsel for the New York State Builders Association