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RE: AN ACT to amend the environmental conservation law, in relation to establishing a state smart growth public infrastructure policy act.

S.5560-B (Oppenheimer)
A.8011-B (Hoyt)

MEMORANDUM IN OPPOSITION

This memorandum is submitted on behalf of our client the New York State Builders Association, Inc., in opposition to the subject legislation. This bill would make any financing of a public infrastructure project by a state agency contingent on a satisfactory evaluation of smart growth criteria by the state agency providing the financing assistance.

Smart growth criteria are best implemented by local municipal zoning laws. This bill could effectively override local zoning and planning determinations by permitting the state to withhold project funding based on a determination that the project is not consistent with smart growth criteria. This bill does not define public infrastructure. This bill could conceivably cover HFA funding for infrastructure improvements for affordable housing projects or SONYMA mortgage financings. As a consequence, HFA would have to make a determination as to whether the project financed met the state smart growth public infrastructure criteria. This review would make timely development of a project impossible and would negatively impact the program, increasing its cost while another review is undertaken. This type of additional review hurdle, after significant local review and the myriad of state requirements, would add such a substantial time requirement that many projects would be stymied.

Based on the foregoing, it is respectfully requested that this bill be defeated.

Respectfully submitted,

WHITEMAN OSTERMAN & HANNA LLP

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