

Home Construction Industry Input into OEMB Rules Revision

Intro: During the 2024 Legislative Session and testimony about HB195, the Governor and many others stated they wanted the Housing portion of the Fund to go toward increasing the supply of owner-occupied housing. Increased supply of housing at all price ranges is the only reliable solution to the rapid price escalation most areas of NM are seeing. Reducing the cost of land development is a key to reducing the cost, and increasing the supply, of all housing including workforce housing.

Central to the testimony was the shared belief that the main reason there is a shortage of all housing, and especially workforce / attainable housing is because of the influence of “Not-In-My-Backyard” (NIMBY) activists and overly-sympathetic local officials. Several western states have passed statewide “Yes-In-My-Backyard” (YIMBY) laws designed to counteract the over-weight NIMBY influence that is creating the housing crisis many states, including New Mexico, are experiencing.

Recommendations from the home building industry aimed in trying to accomplish our goals are: 1.) Increase production of homes at all price levels as quickly as possible; 2.) Reward those political subdivisions who have taken steps to allow the construction of higher-density developments; 3.) Provide leverage to industry advocates to encourage political subdivisions to enact housing-friendly ordinances and land use practices such as other states have found useful in reducing costs and increasing production of housing. (4) Recognition of, and positive accommodation for, the extremely important variable in land development and construction of the elapsed time aspect. Lack of predictability regarding the massive governmental interactions required for land development and construction is contributing greatly to longer elapsed times and greatly increased costs.

Specific recommendations for various terms in HB 195:

- 1.) **“Workforce housing”** needs to be set at an Average Median Income (AMI) that is attainable to most residents. i.e. Bernalillo/Sandoval County AMI is \$68,000/family income per year. When lenders will not finance potential homeowners for more than 31% of their income going toward housing costs (mortgage, property tax, home insurance and PMI), this means it takes at least 200% of AMI to qualify for the median-priced new home at \$385,000 in those counties. HUD and other subsidized-housing providers set their limit at 120% of AMI to be included in their programs. For example, two emergency responders’ / teachers’ incomes would need to be at least 200% of AMI to be able to buy an entry-level new home. These folks are the “missing middle” that needs to be accommodated at the 200-250% AMI level for workforce housing to be available as desired in HB195.
- 2.) **“Infrastructure”** projects need to be separated into (1) offsite government-installed or public/private partnership-installed “backbone” infrastructure such as roads and utilities going past some state or vacant land in order to catalyze building of more housing. (2) Onsite installations provided by private developers who will be installing the residential streets and utilities necessary for the individual homes to be constructed. Because of the completely different financial dynamics these two infrastructure types of projects should be kept separate. For example, a political subdivision that applies for off-site infrastructure help might not be considered in their application because they have not

adopted modern zoning reforms, but a private developer needing to install on-site infrastructure in the same area would be considered.

- 3.) **“Updated zoning reforms”** should include actions and ordinances which counteract the over-weight NIMI-ism, and include concepts such as:
 - (a.) Awarding points on infrastructure project applications to a Political Subdivision that has completed a Comprehensive Plan that establishes a need for additional housing production at all levels, including work-force housing.
 - (b.) **"Administrative design review"** means a development permit process whereby an application is acted upon by appropriate local staff based solely on objective design and development standards with reduced public participation. Several states have recently passed pro-housing production laws that include these features.
 - (c.) **Higher Density allowances** are paramount – For example, award a few points for 5 Dwelling Units (DUs) per acre; more for 8 DU per acre; and a lot more for 12 DU per acre.
 - (d.) **Additional Dwelling Units (ADUs)** - Specific accommodations for ADUs in single-family zoning should count for additional points.
 - (e.) **Development Fees (Impact Fees)** - Points should be awarded for projects in jurisdictions that have waived Development Fees for workforce housing.
 - (f.) **Payment of Development Fees** - Jurisdictions should be rewarded which collect Development Fees at the latest time possible, for instance, at the closing of the sale. Currently, Development Fees are often collected at time of building permitting. This increases the cost of housing without any benefit to the buyer as these Development Fees are carried on the construction loan, causing significant interest charges to accrue during the construction period.

Government Project Applications:

1. Off-site infrastructure projects which facilitate more housing overall should receive greater prioritization. This type project is known as Catalytic infrastructure. In order to determine which project is better than another, there should be extra points for those that can facilitate significant additional development in the future. Many such opportunities exist around NM.
2. Infrastructure project funding requests should receive points if structured as gap funding in partnership with private sector.
3. It is critically important that OEMB loans be subordinate (in second position) to the construction lender loan. If this is not accommodated this program will not be used.
4. Those who apply for funding must have early feedback from agency staff about the changes of their project being funded. Application creation is a major undertaking, and, time consumed waiting for decisions is extremely costly, and waiting on a decision may mean missed opportunities for alternate funding. If this happens the programs will not be useful. It is hoped that early feedback can minimize this problem.

Developer projects Applications:

1. Award extra points for those projects that can pay back the funds faster.
2. Locally-owned companies should get extra points over nationwide companies.

3. Developer should receive greater prioritization for innovative approaches to producing workforce housing.
4. Repayment should not be demanded until cash flow by developer/builder can be expected.

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