

VIEW FROM THE HILL



4th Quarter 2009

Another legislative cycle has ended successfully for the Greater Boston Real Estate Board. A few highlights include:

Housing Bond Bill-GBREB was a key supporter of the \$1.275 billion Housing Bond Bill, and successfully restored \$10 million to support the Low Income Housing Tax Credit (LIHTC). A Senate amendment that would have added an estimated 30-40% to the cost of construction by requiring the payment of prevailing wage was also defeated. GBREB joined with others in opposing the measure out of concern it would dramatically reduce the number of housing units created.

Foreclosed and Abandon Properties-GBREB opposed several bills which called for a new eviction process in the Commonwealth, giving tenants rights to remain in foreclosed buildings at capped rents. GBREB supported the passage of a Boston ordinance designed to help the City secure abandon buildings in foreclosure. Several amendments were successfully adopted including a clarification of the foreclosure process for unpaid assessments owed to a condominium association. GBREB also supported efforts to prevent fires in abandon and foreclosed building through participation in a special statewide public safety taskforce convened by the State Fire Marshal.

Expiring Use-Under the proposed bill, the Department of Housing and Community Development or its designee is given 90 days to purchase an expiring use property and a 30 day right of first refusal to match any purchase contract for the sale of the property. Properties that preserve affordability are exempt from this provision. GBREB opposed this bill because its full impact was not yet quantified. Efforts to explore consensus within the real estate industry regarding this issue will be ongoing.

Transfer Tax-GBREB and the Massachusetts Association of REALTORS® were once again successful in preventing the passage of a proposal to tax homes on Martha's Vineyard and Nantucket. Under the proposed legislation homes priced over \$750,000 on the Vineyard and \$2 million on Nantucket would be assessed a 1% transfer tax.

Room Occupancy Tax- GBREB defeated a proposal to capture short term apartment rentals under the Commonwealths room occupancy tax. GBREB successfully argued that unlike hotels, corporate apartments are rented months at a time through the execution of a lease establishing a classic landlord tenant relationship, and are therefore different than hotels and should not be subject to the same taxation.

Battling Increased Energy Costs-GBREB intervened in a regulatory rule making proceeding before the Massachusetts Department of Telecommunications and Energy. Under the policy known as "Revenue Decoupling," utility companies would be protected against a reduction in revenue resulting from consumers using less energy. GBREB opposed the measure; however despite our concerns as well as those of many other businesses in the Commonwealth, the D.P.U. will try to implement a system like this in Massachusetts.

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Home Energy Scoring-GBREB collaborated with the Massachusetts Association of REALTORS® to oppose a provision of the states comprehensive energy reform bill mandating home sellers to conduct an energy audit at the time of sale. Under a compromise agreement, the Board of Registration of Home Inspectors will be charged with developing information for consumers regarding energy audits at the time of closing.

Maintenance Contracts in Commercial Buildings-Currently commercial building owners award contracts to service contractors who govern and control the terms and conditions of employment of their employees. Commercial building owners are not employers, and are not directly involved. GBREB opposed legislation that inappropriately injected commercial building owners into the collective bargaining process between service companies and their employees.

40B-GBREB took a lead role in stopping efforts to weaken or repeal MGL 40B. GBREB strongly supports Chapter 40B as an effective regulatory tool that has been critical to the production of affordable housing and the expansion in the supply of market rate housing across the Commonwealth.

Move & Store-New legislation filed at the request of GBREB to reduce confusion surrounding the relocation of a tenant's property during eviction proceedings advanced during this legislative session. The GBREB proposal creates clear guidelines regarding property storage and brings fairness and equity back into the eviction process.

Lead Paint-GBREB strongly opposed legislation to dramatically increase the burden on owners and sellers of property to test and remediate lead-not only in lead paint but in soil and tap water as well. The proposed bill would have required landlords to recertify a unit for lead compliance every two years or at the commencement of a new lease-regardless of whether or not a child under six resides in the apartment. It also required a lead inspection on all property sales.

Landlord Tenant Issues-GBREB opposed efforts by the City of Boston to limit the ability of landlords to rent to students above and beyond existing law as "practically unenforceable," and inconsistent with the clear guidelines set forth in the Commonwealth's sanitary code. The matter has been taken to the judicial system by owners aggrieved by the ordinance. GBREB also successfully opposed an expansion of ISD powers to include property liens for housing, sanitary and building code violations. GBREB supports full compliance with the state sanitary code without eroding procedural constitutional protections currently afforded property owners.

Wetlands Disclosure-In collaboration with the Massachusetts Association of REALTORS®, GBREB successfully blocked a proposal to add the disclosure of wetlands to the sale of property. Under the proposal, brokers would be required to investigate and report to buyers on various wetland restrictions, overlay maps and provisions in each community. In addition brokers would be required to research each property at the registry of deeds to see if it is subject to orders of conditions issued by the local conservation commission or DEP.