

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #7
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Rick Wajda- (800) 377-6334- rick@buildindiana.org
Roger Stephens- (800) 377-6334- rogers@bagi.com
Brooke Burtnett- (800) 377-6334- brooke@buildindiana.org

House of Representatives- (800) 382-9842
Indiana Senate- (800) 382-9467

HIGHLIGHTS

Indiana Land Resources Council to Make Their Final Recommendations

Hoosiers will get the chance to look at the Indiana Land Resources Council's (ILRC) recommended model land-use ordinance again. Before the Council finalizes their recommendations on February 27th, they encourage the public to review the information that is posted. The first item on their agenda has been developing model ordinances. Once finalized, the model land use ordinances will be made available to local officials across Indiana for use as tools to help plan their community's land use. These model ordinances are tools for local community's to use; they are not mandated by law. In January, the ILRC hosted three Listening Sessions throughout the state to receive public input on proposed model zoning ordinances. After listening to the testimony the Council revised their recommendations and they are posted on Indiana's State Department of Agriculture's (ISDA) website at: www.in.gov/isda/modelordinances/index.html

Housing Affordability May be Impacted by Revisiting Lumber Pact

According to the NAHB, the US government may attempt to squeeze more concessions out of Ottawa less than four months after a trade pact went into effect that oversees softwood lumber imports from Canada. This development could have a negative impact on housing affordability and American consumers. Last fall, Canada and America concluded a seven year deal in the fall of 2006 that imposes an export tax of 15% on the product at current prices. This helps domestic producers but harms housing affordability by artificially boosting lumber prices during times of normal or slow demands.

Indianapolis remains Nation's Most Affordable Housing Market

According to the NAHB/Wells Fargo Housing Opportunity Index (HOI), Indianapolis was able to maintain its status as the most affordable major US housing market for the 6th consecutive time in the last quarter of 2006. Nation wide, housing affordability moved slightly up because of a clear decline in the average mortgage rate and a slight downshift in the average price of all homes sold. According to the NAHB President, Brian Catalde, the HOI readings indicate that over 40% of new and existing home sales during the fourth

quarter were affordable to families who earned the national average income of \$59,600. This is a slight increase from the third quarter and it is likely due to more favorable mortgage rates towards the end of 2006. In Indianapolis, 89% of homes sold in the 4th quarter were affordable to families earning the area's average household income, which is \$65,100.

LEGISLATIVE

HB 1001 State Budget

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1001>

HB 1001 voted out of the Indiana House of Representatives with a 51-48 vote. It was a strict party line vote. The bill will now move to the Indiana Senate, where major changes will probably be made to the bill. IBA staff will continue to track the bill's process and keep you posted on its status.

HB 1163 Subcontractors Liens (Orentlicher, D-Indianapolis)

<http://www.in.gov/legislative/bills/2007/IN/IN1163.1.html> Provides that a contractor must pay all subcontractors within five business days after receiving payment from a homeowner or builder. Provides that a builder must disclose to a purchaser all subcontractors used in new home construction. Requires a contractor to provide notice to all subcontractors when the contractor has been paid by a homeowner or builder. Prohibits a subcontractor from filing a lien against a property if the primary contractor has received full payment for the contract. Allows a subcontractor to file an action against a prime contractor to recover any unpaid claims due under a contract between the prime contractor and the subcontractor.

HB 1163 died in committee this week due to a lack of quorum.

HB 1812 Energy Efficient Buildings (Pierce, D-Bloomington)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1812> Requires a public works contract that is for the construction of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or an equivalent rating system, such as a Two Globes rating system under the Green Building Initiative's Green Globes rating system. Requires a public works contract that is for the reconstruction, repair, alteration, or retrofitting of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the standards for existing buildings under the LEED rating system or an equivalent rating system. Provides that for state agency purchases, there is a 5% price preference for any electronic office equipment, including computers, monitors,

printers, scanners, fax machines, and copiers, that are compliant with the United States Environmental Protection Agency Energy Star ratings. Allows a county fiscal body to adopt an ordinance providing a deduction from the assessed value of a newly constructed building or a rehabilitated building that is certified to meet the LEED rating system or an equivalent rating system. Requires the ordinance to specify the amount of the deduction. Allows the Indiana economic development corporation to adopt rules allowing the corporation to give priority to economic development projects that meet or surpass the standards of the leadership in energy and environmental design ratings systems developed by the U.S. Green Building Council or the Green Building Initiative.

HB 1812 received a vote on the House Floor on Thursday but was unable to pass due to a lack of constitutional majority. It had 49 “yes” votes and 48 “no” votes. The bill is expected to come back again before the deadline on Monday. IBA staff continues to meet with Rep. Terri Austin and others to express our concerns with the bill.

HB 1351 Affordable Housing and Community Development Fund (Bardon, D-Indianapolis)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1351> Allows a county in which at least one unit in the county has established an affordable housing fund to adopt an ordinance authorizing the county recorder to charge a fee of: (1) \$5 for the first page; and (2) \$1 for each additional page; of each document recorded by the county recorder. Provides that: (1) 60% of the fees collected shall be distributed to those units with an affordable housing fund for deposit in those funds; and (2) 40% of the fees shall be deposited in the affordable housing and community development fund. Prescribes a formula for apportioning the fees collected among the units with affordable housing funds. Allows a county containing a consolidated city to adopt an ordinance authorizing the county recorder to charge a fee of: (1) \$5 for the first page; and (2) \$1 for each additional page; of each document recorded by the county recorder. Provides that: (1) 60% of the fees collected shall be deposited in the county's housing trust fund; and (2) 40% of the fees shall be deposited in the affordable housing and community development fund. Provides that, beginning July 1, 2007, on July 1 of each year, the interest balance in the property custody fund and the interest balance in the abandoned property fund shall be transferred to the affordable housing and community development fund. (Current law provides that on July 1 of each year, the interest balance in the property custody fund and the interest balance in the abandoned property fund shall be transferred to the state general fund.)

As of press time, HB 1351 has moved to the floor of the House of Representatives for debate and a vote. IBA continues to express their concerns with the recording fees language in the bill and would prefer to see a general appropriation to fund the affordable housing fund. IBA staff will continue to monitor the bill's process. IBA will oppose any amendments that increase the cost of housing that is not borne by all taxpayers.

HB 1525 New Home Construction and Homeowner Construction (Murphy, R-Indianapolis)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1525> Provides that after June 30, 2007, a builder may not enter into a home construction contract with a prospective home buyer unless the builder first gives the prospective home buyer a written estimate of the property taxes that: (1) will be owed by the prospective home buyer on the new home; and (2) are based on an assessment made on the first assessment date after the construction of the new home is complete. Specifies that the required estimate may not be based on an assessment of unimproved real estate. Requires the Indiana housing and community development authority (authority) to prescribe a form to be used by builders in making the required disclosure. Defines an "at risk home buyer" as a person who: (1) has a credit score that is less than 620; and (2) seeks to obtain a home loan from a creditor. Requires the authority prepare and make available to creditors home ownership educational materials for use by at risk home buyers. Provides that after June 30, 2007, a creditor may not enter into a home loan with an at risk home buyer unless the creditor first gives the at risk home buyer the educational materials prepared by the authority.

IBA continues to monitor HB 1525 as it moves through the process and work with interested parties to relay concerns of the IBA on the issue. As of press time, the bill is under consideration by the House of Representatives.

HB 1753 Mortgage Foreclosure Counseling (Summers, D-Indianapolis)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1753> Requires the Indiana housing and community development authority (authority) to establish a program to provide free mortgage foreclosure counseling and education to homeowners who have defaulted on or are in danger of defaulting on the mortgages on their homes. Provides that the program must include a central toll free telephone number that homeowners may call to receive mortgage foreclosure counseling and education. Authorizes the authority to award grants for the training of counselors who will provide mortgage foreclosure counseling and education. Provides that the authority may establish standards for the certification of counselors. Establishes the foreclosure prevention counseling and assistance fund for purposes of carrying out the authority's powers and duties under the program. Provides that \$1.25 of the mortgage recording fee shall be distributed to the fund (rather than to the state general fund). Specifies that money in the fund is appropriated continuously to the authority for the authority's use in carrying out the program. Provides that the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the program. Requires the authority to submit a report to the legislative council annually.

HB 1753 was voted out of the Family, Children, and Human Affairs Committee and is scheduled for the House Floor this week.

HB 1763 ARCHEOLOGY (Pierce, D- Bloomington)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1763> Defines "artifact" as an object made by a human before December 31, 1870. Requires a person disturbing ground to use reasonable care and diligence to determine if the ground that may be disturbed is within 100 feet of a cemetery or burial ground. Requires a person who disturbs buried human remains or artifacts to cease disturbing the remains or artifacts and the surrounding area within 100 feet; makes it a Class A infraction to fail to do so. Makes reports concerning the location of historical or archeological sites confidential under some circumstances. Allows certain persons to accompany a conservation officer to investigate a violation of historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with an approved archeological or development plan. Allows a court to order restitution for certain costs related to the violation of historic preservation and archeology law. Makes it a Class D felony to possess looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan approved by the department of natural resources is exempt from other disinterment procedures. Makes conforming changes. Makes an appropriation.

HB 1763 was voted on and passed out of the House of Representatives this week. It will now go before the Senate for consideration. IBA staff is working with the Senate sponsor to ensure our concerns are addressed.

SB 432 Environmental Fees (Gard, R- Greenfield)

<http://www.in.gov/legislative/bills/2007/SB/SB0432.1.html> Modifies various environmental fees.

As of press time, SB 432 is on the floor of the Indiana Senate for debate and vote. IBA staff met with the Commissioner of IDEM and the Governor's Office in February to discuss the housing industry's concerns with the fee increase language. Rule 5 NOI fees would go from \$100 to \$400 under the proposed legislation and certain wetland permit fees would be instituted as well. IBA is working with IDEM on their justification for the fee increase and will act accordingly as the bill moves through the process.

SB 112 and SB 161 ANNEXATION (Gard, R- Greenfield)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=112> Requires a municipality that initiates an annexation to pay all court costs and reasonable attorney's fees if the annexation is remonstrated against and the court enters judgment against annexation.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=161> Reduces the number of landowner signatures required for a remonstrance against an annexation: (1) from at least 65% to at least 51% of the owners of land in the annexed territory; or (2) from the owners of more than 75% to the owners of at least 51% of

assessed valuation of the land in the annexed territory. Removes a provision that requires 75% of the owners of land in annexed territory to sign a remonstrance if the territory consists of not more than 100 parcels and 80% of the boundary of the territory proposed to be annexed is contiguous to the municipality.

SB 112 and 161 were voted on in the Local Government and Elections Committee on Thursday. They both failed with a vote of 5-4.