



Testimony on Bill No. 090591  
City Council's Law and Government Committee  
October 20, 2009

My name is Sam Sherman, and I am the President of the Building Industry Association, which represents the region's residential home builders. I am here today on behalf of the BIA to testify in support of Bill No. 090591. I want to thank Chairman Greenlee for allowing me to testify today, and I particularly wish to thank Councilman Clarke for introducing this legislation.

Bill No. 090591, together with its enabling Resolution No. 090626, would change Philadelphia's Home Rule Charter by removing the L&I Commissioner as a designated member of the Zoning Board of Adjustment, and instead she would serve as an alternate member as needed. Another companion bill, No. 090588, would then revise the members required for a quorum from four to three.

The members of the BIA go frequently before the ZBA, and we have been very impressed with the professionalism and diligence this board has brought to their hearings. Nonetheless, it is true that it has occasionally been difficult for the Board to obtain a quorum. In this time of plunging housing prices, limited lender cooperation, and necessary deadlines to be met, the lack of any action has the potential to totally derail an investment opportunity in the city.

For a developer to go through all the work of getting support from community associations and neighbors and City Council, only to be told to wait up to another three months, endangers good projects and the jobs and opportunities that come with these projects. As a city, this practice is a dis-incentive to invest here and makes the development process just that much more un-predictable in an economic environment that needs predictability.

The easier it is to get a quorum, the more likely a case will be heard when it is scheduled to be heard. This proposed change will help more cases move through the process in a more timely and efficient manner, which will be good for business and good for Philadelphia through increasing jobs, taxes, and additional consumption of goods and services that help the tax base of the city.

Also, removing the L&I Commissioner as a permanent member of the Board will allow her and her deputies, and all future Commissioners as well, to keep their time and focus on the great work they are doing in their department and not on zoning variances.

In the interim, the Board should also consider increasing the number of cases that they hear each week. The Board had limited the hearing list to about 15 cases per day, and while we are still in a development blackout, there are a significant number of matters that continue to come before the Board, and increasing the number of cases heard each week would be very helpful in eliminating the current backlog the Board is experiencing.

The BIA would also like to suggest additional Zoning Board governance changes for City Council and the ZBA to consider. Elsewhere in the state and across the country, local zoning boards have a staff attorney present to assist in interpreting the code for the Board and to prepare for the inevitable appeals that occur. If the fee were increased for filing an appeal of a ZBA decision, the ZBA could hire their own staff attorney, independent of the city, and this could also assist in their and the Nutter Administration's efforts to improve the professionalism, predictability, and the transparency of the development process.

There are other best practices from around the state that should be considered as well. City Council should require the ZBA to make its decision within 45 days of the close of the hearing, or the appeal would be deemed approved. Also, most every other municipality allows an applicant who is successful at the ZBA to request a bond from a third party appellant filing a frivolous appeal of the ZBA decision. These two simple changes would add more certainty to developers who are trying to bring projects to the city.

These are all proposals that work for every other city and county in the state, and would not change the process in any meaningful way but would improve the professionalism of the Zoning Board and increase the likelihood of development occurring throughout our neighborhoods. The BIA is hopeful that many of these issues will be taken up by the Zoning Code Commission as well, but these are all common-sense reforms that could help make the process work much better now for all parties, and we offer our assistance in drafting these proposals if desired.

The BIA appreciates City Council's interest in improving the zoning process, and we again thank Councilman Clarke for his efforts in this regard. The members of the Building Industry Association ask that the Law and Government Committee approve Bill 090591, and we thank you for your consideration and support.