



Committee on Labor & Housing

~MINUTES~

Tuesday, October 9, 2018

10:01 AM

Committee Chair: Damon Maher

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Damon Maher	Chair	Present	
Catherine Borgia	D9 Legislator	Present	
Margaret A Cunzio	D3 Legislator	Absent	
Christopher Johnson	D16 Legislator	Present	
Catherine Parker	D7 Legislator (Majority Leader)	Present	
Alfreda Williams	D8 Legislator (Vice Chair)	Present	
Benjamin Boykin	D5 Legislator (Chairman)	Present	

Others In Attendance: BOL: MaryJane Shimsky, Gordon Burrows, Kitley Covill, John Testa, David Tubiolo, Nancy Barr CONSUMER PROTECTION: Jim Maisano, John Gaccione LAW: Stacey Dolgin-Kmetz CE: Copper Crane, Steve Bass GUESTS: Marylou Green, Jason Parker, Ann Heekin, Swatanter Polce, Cassidy Fitzgerald, M. Momeni

MINUTES APPROVAL

1. Monday, October 01, 2018 at 1:01 PM
2. Monday, September 24, 2018 at 10:01 AM

I. ITEMS FOR DISCUSSION

Meeting jointly with the Committees on Legislation and Budget & Appropriations.

Law: County Attorney John Nonna

Consumer Protection: James Maisano, Director

Guests: Ann Heekin, Executive Director and Gonzalo Carreon - Don Bosco Community Center

1. **(ID # 11243) Local Law – LEGISLATORS BARR, JOHNSON, COVILL, BOYKIN, PARKER, SHIMSKY, BORGIA, MAHER, CLEMENTS AND A. WILLIAMS: Home Improvement Licensing Law Amendments:**

A LOCAL LAW amending Article XVI of Chapter 863 of the Laws of Westchester County in relation to the licensing of persons engaged in the home improvement business.

The Committees will be discussing Items #11243 Local Law and #11244 Public Hearing - Home Improvement Licensing Law Amendments.

James Maisano, Director, Consumer Protection and Deputy Director Gaccione joined the Committee to discuss the proposed home Improvement Licensing Law. Mr. Maisano began by stating there are three pieces to this law and he will present them one at a time.

The first piece was a meeting with Legislator Barr who discussed changing the law to protect workers from wage theft. Mr. Maisano told Leg. Barr that if they had evidence of wage theft they would never grant a license to the contractor, as provided for under State law. However, Leg. Barr wanted to codify what we do regarding wage theft, so throughout our law we made changes as per the suggestions of Legislator Barr and the advocates. There is similar language in several places throughout the new law.

Mr. Maisano also made the point that they do not hear about cases resolved in small claims court and they are working on ways to get that information to them. Leg. Borgia suggested using e-news.

In answer to a question by Legislator Testa, Mr. Maisano noted that they are constantly dealing with judgments and satisfactions of judgments.

Mr. Maisano noted that the second piece was increasing license fees. The Department of Consumer Affairs has advocated raising the home improvement licensing fee because it's very low. By their estimate they are losing about \$400,000 a year in lost fees. The current license fee is \$300 for two years and they are recommending an increase of \$100, so the new fee would be \$400 for two years. He then gave background on previous fee raises and noted that they are doing more on background checks than they have ever done and it costs more to do that. He also stated that Westchester charges the lowest fees of the surrounding counties, so we are short changing our taxpayers.

In response to Legislator Tubiolo's question, Mr. Maisano stated that they have been working very closely with the NYS Turf and Landscape Association.

Ms. Williams brought up the question of raising the fee more so that we are more in line with what the other Counties are charging. Several suggestions were offered. There was further discussion concerning whether to put in an option to increase fees or to leave the legislation as is and revisit an increased fee in the future. Mr. Maisano noted that the higher the fee, the more push back from the industry.

Legislator A. Williams recommended that we increase the fee to \$400 for this coming year 2019, with inclusion in the legislation that subsequent to that the fee will go up by \$100 for two years. A discussion on the recommendation followed.

Legislator A. Williams made a motion to amend the legislation to keep the raise for 2019 as it is and in 2021 the fee will be raised to \$500. Legislator Johnson seconded and the amendment was approved with a vote of 6-0.

RESULT:	PENDING
----------------	----------------

2. (ID # 11244) Resolution – LEGISLATORS BARR, JOHNSON, COVILL, BOYKIN, PARKER, SHIMSKY, BORGIA, MAHER, CLEMENTS AND A. WILLIAMS: PH - Home Improvement Licensing Law Amendments:

A RESOLUTION to set a Public Hearing on a "Local Law amending Article XVI of Chapter 863 of the Laws of Westchester County in relation to the licensing of persons engaged in the home improvement business." [Public Hearing set for _____, 2018 at _____ .m.].

Please refer to item # 1.

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator A, Williams seconded by Legislator Johnson the Committee adjourned at 11:02 AM.



Committee on Labor & Housing

~MINUTES~

Monday, October 1, 2018

1:01 PM

DRAFT

Committee Chair: Damon Maher

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Damon Maher	Chair	Present	
Catherine Borgia	D9 Legislator	Present	
Margaret A Cunzio	D3 Legislator	Present	
Christopher Johnson	D16 Legislator	Present	
Catherine Parker	D7 Legislator (Majority Leader)	Present	
Alfreda Williams	D8 Legislator (Vice Chair)	Present	

Others In Attendance: BOL: Kitley Covill, MaryJane Shimsky, Gordon Burrows, John Testa , David Tubiolo Human Rights Commission: Saad Siddiqui LAW: John Nonna, Stacey Dolgin-Kmetz, Justin Adin

MINUTES APPROVAL

- Monday, September 24, 2018 at 1:00 PM

On motion of Legislator Johnson, seconded by Legislator Parker the minutes were approved 6-0.

- Tuesday, September 25, 2018 at 10:01 AM

I. ITEMS FOR DISCUSSION

Meeting jointly with the Committees on Legislation & Social Services.

LAW: Chief Deputy County Attorney Dolgin-Kmetz and Deputy County Attorney Adin

HRC: Fair Housing Director, Saad Siddiqui

- RES-2018-154 Resolution – PH - Source of Income:**

A RESOLUTION setting a Public Hearing on a Local Law amending Local Law 3-2013, which amended the Laws of Westchester County, in relation to prohibiting housing discrimination based on source of income [Public Hearing set for October 15, 2018 at 7:30 p.m.] LOCAL LAW INTRO No. 11221-2018.]

County Attorney John Nonna, Chief Deputy County Attorney Dolgin-Kmetz and Associate County Attorney Adin join the committee to continue the discussion on the proposed Local Law - Source of Income. Chair Maher began the discussion question why Co-op and Condos are exempt from the Law. County Attorney Nonna explained that is unlikely that someone would purchase a Co-op and/or Condo with a section 8 voucher or anything other type of payment that could possible be discriminated against. Legislator Parker asked to pass the

Law as is. One change was made to the Local Law, in the original drafting the "child and spousal support" was removed, Mr. Adin explained it might have been a typographical error on his part by including. "Child and spousal support" was removed from the committee report. With a motion by Legislator Parker and seconded by Legislator Borgia the item was approved for all purposes with a vote of 6-0 (Yes- Borgia, Parker Cunzio, A. Williams / WOP- Maher, Johnson)

RESULT: SIGNED BY COMMITTEE

2. **(ID # 11221) Local Law – Source of Income:**

A LOCAL LAW amending Local Law 3-2013, which amended the Laws of Westchester County, in relation to prohibiting housing discrimination based on source of income.

Please refer to item #1.

With a motion by Legislator Parker and seconded by Legislator Borgia the item was approved for all purposes with a vote of 6-0 (Yes- Borgia, Parker Cunzio, A. Williams WOP- Maher, Johnson)

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Maher seconded by Legislator Borgia the Committee adjourned at 1:45 PM.



Committee on Labor & Housing

~MINUTES~

Monday, September 24, 2018

10:01 AM

Committee Chair: Damon Maher

2
DRAFT

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Damon Maher	Chair	Present	
Catherine Borgia	D9 Legislator	Present	
Margaret A Cunzio	D3 Legislator	Present	
Christopher Johnson	D16 Legislator	Absent	
Catherine Parker	D7 Legislator (Majority Leader)	Present	
Alfreda Williams	D8 Legislator (Vice Chair)	Present	
Benjamin Boykin	D5 Legislator (Chairman)	Present	

Others In Attendance: BOL: John Testa, Kitley Covill, MaryJane Shimsky, Nancy Barr LAW: Rachel Noe, David Vutera PLANNING: Norma Drummond Guests: Bill Balter Annie Kline CE: Steve Bass

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

Meeting jointly with the Committee on Budget & Appropriations.

PLANNING: Commissioner Drummond

LAW: David Vutera and Rachel Noe

1. **RES-2018-152 Resolution – ENV RES - 14 LeCount Place, New Rochelle:**

A RESOLUTION determining that there will be no significant adverse impact on the environment in connection with the purchase of real property located at 14 LeCount Place in the City of New Rochelle for the purpose of developing 76 affordable rental apartments.

Commissioner Drummond from the Planning Department and Bill Balter developer from Wilder Balter, Inc., came before the Committee to discuss 14 LeCount Place Apartments for the City of New Rochelle (ID #'s 11215, 11216, 11217, 11218, and 11219). Commissioner Drummond explained that there are two buildings Phase 1 and Phase 2. Today they are discussing Phase 1 a 27 story mixed use building with 379 rental apartments including 76 affordable apartments, 303 market rate rentals and approximately 6,170 square feet of retail space. Ms. Drummond explained that before the committee is 5 pieces of Legislation, Environmental Resolution, Bond Act BPL30, in the amount of \$4,180,000, Land Acquisition to purchase .61 acres of property located at 14 LeCount Place in New Rochelle, Bond Act-

Minutes Acceptance: Minutes of Sep 24, 2018 10:01 AM (MINUTES APPROVAL)

BPL1A, in the amount of \$1,500,000 to finance sewer improvement and a IMDA- Inter-municipal Developer Agreement with Wilder Balter Partners, Inc.

The AFFH units will include 17 studios, 41 one-bedroom and 18 two-bedroom rental apartments that will be expected to rent for approximately \$1000-\$1600 per month. New Rochelle does have an agreement that 10% has to be affordable housing; this project is actually at 20%. She said the building includes many amenities including a fitness room and outside pool. Parking spots are available to the units and shopping is across the street very easy access to all. The developer is also buying additional spots.

Ms. Drummond explained that they are being asked to provide for sewer improvements would include construction and construction management. The sewer would include expanding the width. With a motion by Legislator Maher and seconded by Legislator Parker the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

2. **ACT-2018-155 Act – BOND ACT - BPL30 - 14 LeCount Place, New Rochelle:**

A BOND ACT authorizing the issuance of FOUR MILLION, ONE HUNDRED EIGHTY THOUSAND (\$4,180,000) DOLLARS in bonds of Westchester County to finance Capital Project BPL30 - 14 LeCount Place, New Rochelle.

Please see item # 1.

With a motion by Legislator Maher and seconded by Legislator Parker the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

3. **ACT-2018-154 Act – Land Acquisition - 14 LeCount Place, New Rochelle:**

AN ACT authorizing the County of Westchester to purchase approximately 0.61 acres of real property located at 14 LeCount Place in the City of New Rochelle and subsequently convey said property, as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of developing 76 affordable rental apartments that will affirmatively further fair housing and remain affordable for a period of not less than 50 years.

Please see item # 1.

With a motion by Legislator Maher and seconded by Legislator Parker the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

4. **ACT-2018-156 Act – BOND ACT - BPL1A - 14 LeCount Place, New Rochelle:**

A BOND ACT authorizing the issuance of ONE MILLION, FIVE HUNDRED THOUSAND (\$1,500,000) DOLLARS in bonds of Westchester County to finance Capital Project BPL1A - 14 LeCount Place, New Rochelle.

Please see item # 1.

With a motion by Legislator Maher and seconded by Legislator Parker the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

5. ACT-2018-157 Act – ACT - IMDA - New Rochelle Wilder Balter Partners, Inc:

AN ACT authorizing the County of Westchester to enter into an intermunicipal-developer agreement with the City of New Rochelle and Wilder Balter Partners, Inc., its successors or assigns (the "Developer") to fund certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance hereof which will be in support of the development of 76 affordable rental apartments that will be constructed at 14 LeCount Place in the City of New Rochelle.

Please see item # 1.

With a motion by Legislator Maher and seconded by Legislator Parker the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

6. RES-2018-153 Resolution – ENV RES-AvalonBay Communities, Inc.:

A RESOLUTION determining that there will be no significant adverse impact on the environment in connection with the purchase of 3.77 acres of real property located in the Town/Village of Harrison for the purpose of developing seven affordable rental units - AvalonBay Communities, Inc.

Commissioner Drummond from the Department of Planning joined David Vutera and Rachel Noe from the Law Department to discuss 4 items associated with the AvalonBay Communities, Inc. (Item #'s 11247, 11248, 11249, and 11250). Commissioner Drummond discussed that this legislation is in 4 parts; Land Purchase and Conveyance, which is an Act to authorize the purchase and conveyance of approximately 3.77 acres of real property located at Halstead Avenue adjacent to the Harrison Metro North Railroad Station in Harrison adjacent to the Harrison Metro-North Railroad Station in downtown Harrison. A new multi-story building will be constructed on four existing parking lots and will include 143 residential units and 136 market-rate rental and 7 affordable rental units. The County will purchase the property for the not-to-exceed amount of \$1,000,000. The per unit cost will be \$142,857 per unit, 1 bedroom @60 % Area Median Income (AMI) \$1,235, 2 bedroom @60% AMI \$1,497.

Rachel Noe of the Law Department explained that there is an additional Act for property that will authorize the County to convey by quitclaim deed approximately 11,174 square feet of land located on County Road 80 A on Halstead Avenue in the Town of Harrison for the purchase price of \$35,000. Additionally, the Act will authorize the County to accept from the Developer an easement for the County to relocate Bus Stop #2765. It was discussed that the current Bus Stop is unsafe for resident to get to and relocating will provide safe access. With a motion by Legislator A. Williams and seconded by Legislator Borgia the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

7. ACT-2018-158 Act – Land Acquisition-AvalonBay Communities, Inc.:

AN ACT authorizing the County of Westchester to purchase approximately 3.77 acres of real property located in the Town/Village of Harrison and subsequently convey said property for

Minutes Acceptance: Minutes of Sep 24, 2018 10:01 AM (MINUTES APPROVAL)

the purpose of developing seven affordable rental units that affirmatively further fair housing and which shall remain affordable for a period of not less than 50 years.

Please see item #6.

With a motion by Legislator A. Williams and seconded by Legislator Borgia the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

8. ACT-2018-159 Act – BOND ACT-BPL30-AvalonBay Communities, Inc.:

A BOND ACT authorizing the issuance of ONE MILLION (\$1,000,000) DOLLARS in bonds of Westchester County to finance the cost of the purchase of real property located at Halstead Avenue in the Town/Village of Harrison - Capital Project BLP30 - AvalonBay Communities, Inc.

Please see item #6.

With a motion by Legislator A. Williams and seconded by Legislator Borgia the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

9. ACT-2018-160 Act – Quitclaim Deed-AvalonBay Communities, Inc.:

AN ACT authorizing the County of Westchester to convey approx. 11,174 sq. feet (or 0.2565 acres) more or less of County Road 80A on Halstead Avenue in the Town of Harrison to AvalonBay Communities, Inc., its successors or assigns, for the sum of \$35,000 upon the condition AvalonBay Communities Inc., its successors or assigns, restrict through a Declaration of Restrictive Covenant a portion of the Roadway Parcel as a public right-of-way and grant, and the County be authorized to accept a permanent easement for the County, Town of Harrison, Village of Harrison and general public to use the public right-of-way and the County to relocate Bus Stop #2765 to within the public right-of-way.

Please see item #6.

With a motion by Legislator A. Williams and seconded by Legislator Borgia the item was approved with a vote of 5-0.

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Parker seconded by Legislator Cunzio the Committee adjourned at 11:15 AM.

Minutes Acceptance: Minutes of Sep 24, 2018 10:01 AM (MINUTES APPROVAL)

Minutes Acceptance: Minutes of Sep 24, 2018 10:01 AM (MINUTES APPROVAL)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending Article XVI of Chapter 863 of the Laws of Westchester County in relation to the licensing of persons engaged in the home improvement business.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Section 863.312 of the Laws of Westchester County is hereby amended to read as follows:

Unless the context otherwise specifically requires, the following terms, when used in this Article, shall have the following meanings:

1. "Contractor" means any person who owns, operates, maintains, controls, transacts or conducts a home improvement business or who undertakes, facilitates or advertises a home improvement service or offers to undertake, facilitate or agrees to perform any home improvement. A person shall be deemed to facilitate a home improvement service when, for a fee, they organize, oversee, or arrange for other Contractors to perform home improvement services.

2. "Home improvement" means a repair, replacement, remodeling, installation, construction, alteration, conversion, modernization made to, in or upon a private residence, apartment or dwelling place of not more than three units, including, but not limited to the following:

- a. waterproofing;
- b. exterior siding, awnings, leaders and gutters;
- c. decks, patios, garages, carports and additional rooms;
- d. storm and/or replacement windows and doors;

- e. roofs;
- f. driveways and walkways;
- g. kitchens and bathrooms;
- h. masonry;
- i. fence installations;
- j. chimney maintenance;
- k. exterior and interior painting;
- l. landscaping and gardening;
- m. arboriculture;
- n. tile setters;
- o. swimming pools; [and]
- p. underground sprinkler systems;
- q. excavation; and
- r. other similar improvements.

3. “Home improvement business” means the business of providing for a profit, a home improvement to an owner, provided, however, the term shall not include labor or services performed by an employee for a contractor.

4. “Home improvement contract” means an agreement between a contractor and an owner for the performance of a home improvement, and includes all labor, services and materials to be furnished and performed there under, either directly by the contractor or by another person under separate agreement with the contractor.

5. “Leaf blower” means any portable device powered by a self-contained internal combustion engine, which is commonly used in landscaping and property maintenance to

blow, disperse or redistribute dust, dirt, leaves, grass clippings, cuttings, trimmings from trees or shrubs, or other debris on sidewalks, driveways, lawns, or other surfaces.

6. “Licensee” means a person licensed to engage in the home improvement business under the provisions of this Article.

7. “Owner” means a homeowner, tenant, or any other residential dweller who orders, contracts for, or purchases a home improvement.

8. “Person” means an individual, firm, company, partnership, association, corporation or other business entity.

9. “Affiliate” shall mean any person controlling, controlled by, or under common control with a licensee or contractor. The terms “control”, “controlled” or “controlling shall mean the possession, direct or indirect, of the power to cause the direction of management and policies of such controlled person. The ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or the possession of the right to vote, in the ordinary direction of its affairs, of fifty-one percent (51%) of the voting interest in, any person shall be presumed to constitute such control.

Section 2. Section 863.313 of the Laws of Westchester County is hereby amended to read as follows:

1. No person shall maintain, conduct, advertise, operate, or engage in the home improvement business within the county of Westchester, or hold himself or herself out as being able to do so, unless such person is licensed pursuant to this Article.

2. Upon issuance of a home improvement license [to a landscaper or a gardener] under the provisions of this chapter, the Sealer shall issue a vehicle decal for each vehicle identified by the licensee as a vehicle which will be used in connection with the licensed activities. Such

vehicle decals shall be conspicuously displayed in or on the vehicle(s) used in connection with the licensed activities during the term of the license.

Section 3. Section 863.314 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 863.314. - Application for license or renewal; affirmation regarding leaf blowers.

1. An application for a license under this article, or a renewal thereof, shall be made in writing to the Sealer in accordance with such procedures, providing such information and on such forms as the Sealer may from time to time require. An application shall require any information the Sealer deems necessary to render a determination in accordance with this Chapter and shall, at a minimum, require the disclosure of any final and non-appealable civil, criminal, or administrative business related judgments incurred by the applicant, or by any business for which applicant was an owner, director, officer, member, or otherwise exercised control over the business. The application shall be signed by the applicant and shall be accompanied by a check, cash or money order in the amount of the fee required under section 863.315 of this article.

2. [a. Effective January 1, 2008, through December 31, 2008, a contractor, engaged in the business of landscaping, gardening, arboriculture, or any similar outdoor vocation, seeking to obtain or renew a license under this section, shall verify in writing that such contractor, its agent, affiliate or employee is aware of the requirements of Subsection 1 of Section 863.327 of this Chapter, and shall comply with such subsection when effective; and b. Effective January 1, 2009, a] A contractor, engaged in the business of landscaping, gardening, arboriculture, or any similar outdoor vocation, seeking to obtain or renew a license under this section, shall

verify in writing that such contractor, its agent, affiliate or employee is in compliance with Subsection 1 of Section 863.327 of this Chapter.

Section 4. Section 863.315 of the Laws of Westchester County is hereby amended to read as follows:

The non-refundable biannual fee for a license to conduct a home improvement business shall be [~~\$300.00~~] \$400.00, and for each renewal thereof the fee shall be [~~\$300.00~~] \$400.00. The license to conduct a home improvement business shall be for a period of two years and each renewal thereof shall be for two years. The Sealer may impose a penalty of \$25.00 upon a renewal application received by the Sealer later than 15 days prior to the expiration date of the license sought to be renewed. The fee for issuing a duplicate license for one lost, destroyed or mutilated shall be \$25.00.

Section 5. Section 863.316 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 863.316. - Grant or denial of license or renewal.

1. Within 90 days after receipt of a complete application in proper form, the Sealer shall grant or deny a license, or renewal thereof, under this article. The Sealer shall grant the license or renewal unless the Sealer determines that that applicant:

- a. Is not financially responsible. In making such a determination the Sealer shall take into consideration all final non-appealable determinations of liability in any civil, criminal or administrative actions involving nonpayment or underpayment of wages rendered by any local, state, or federal government court, agency, or division, including any such

determinations rendered against any business for which the applicant was an owner, director, officer, member, or otherwise exercised control over the business.

- b. Is unqualified to engage in the home improvement business;
- c. Has made a false statement of a material fact in the application for a license under this article;
- d. Has outstanding against it [on a recurrent basis] unsatisfied home improvement business-related judgments. In making such a determination the Sealer shall take into consideration all final non-appealable determinations of liability in any civil, criminal or administrative actions involving nonpayment or underpayment of wages rendered by any local, state, or federal government court, agency, or division, including any such determinations rendered against any business for which the applicant was an owner, director, officer, member, or otherwise exercised control over the business.
- e. Has against it an unacceptable amount of home improvement complaints as determined by the Sealer.

A denial of a license or renewal shall be made by the Sealer in writing and shall set forth a statement of the reason or reasons therefor and shall be subject to administrative and judicial review in accordance with subsection 2. of this section.

2. Within 30 days after a denial of an application for a license or a renewal thereof, the applicant shall be entitled to demand a hearing before the Sealer by making a written demand therefor. Following receipt of such written demand, a hearing shall be held by the Sealer, or by a deputy designated by the Sealer, or by such other person or persons designated by the Sealer. A record of such hearing shall be made. At such hearing the applicant may be represented by counsel and may offer evidence in his or her behalf to demonstrate that a

license or renewal should be granted. Compliance with technical rules of evidence shall not be required. If a deputy or other person or persons is designated to hold the hearing, such deputy or other designated person or persons shall refer the record and recommendations to the Sealer for determination. The determination made by the Sealer shall be subject to judicial review in accordance with Article 78 of the Civil Practice Law and Rules in a proceeding brought within four months after the determination is rendered.

Section 6. Section 863.319 of the Laws of Westchester County is hereby amended to read as follows:

1. It shall be a violation to:

a. Abandon or fail to perform, or furnish, without justification, any labor, services or materials included under a home improvement contract, or willfully deviate from the plans or specifications of a home improvement contract in any material respect without the consent of the owner;

b. Conduct a home improvement business in any name other than the one in which the person is licensed;

c. Fail to agree in writing that the owner may cancel by written notice the home improvement contract without penalty at any time prior to midnight on the third business day after the date such contract is made;

d. Make a false statement or provide false information in making application for a license, including a renewal or duplicate license;

e. Fail to notify the Sealer, in writing, of any change of control in the ownership, management or business name or location of a home improvement business within ten (10) days thereof;

f. Fail to disclose on all advertising, stationery, proposals, change orders, and invoices for a home improvement business and in all contracts with an owner for a home improvement, the number of the license issued under this Article[.];

g. Fail to comply with the provisions of Section 863.325 of this Article[.];

h. Fail to comply with the provisions of Sections 863.326, [and] 863.327 and 863.329 of this Article.

i. Operate a home improvement business without a license as required by this article.

2. The foregoing acts are unlawful when committed by a person engaged in the home improvement business within the County of Westchester and violations of the provisions of this Section proscribing certain acts shall be enforced in accordance with and shall be subject to the penalties provided in the Laws of Westchester County, including but not limited to Chapter 182, Article VIII of Chapter 277 and Article I of Chapter 863 thereof.

Section 7. Subdivision “5” of Section 863.324 of the Laws of Westchester County is hereby amended to read as follows:

5. The Sealer is empowered to establish administrative procedures to carry out the provisions of this Article in conformity with the provisions thereof. The Sealer shall require proof of [personal] liability and property damage insurance in an amount to be set by the Sealer [in an amount not to exceed \$300,000.00].

Section 8. Section 863.327 of the Laws of Westchester County, as added by Local Law No. 16-2007, is hereby amended, by renumbering it as Section 863.328, as follows:

[Section 863.327. Seizure and impoundment of vehicles and tools used in connection with the unlicensed operation of a home improvement business.]

Section 863.328. Seizure and impoundment of vehicles and tools used in connection with the unlicensed operation of a home improvement business.

Section 9. Article XVI of Chapter 863 of the Laws of Westchester County is hereby amended by the addition of a new Section 863.329 to read as follows:

Section 863.329. Contract provisions.

Every home improvement contract and all amendments thereto, shall be in writing and shall be signed by all the parties to the contract. The writing shall be legible, in plain English, and shall be in such form to describe clearly any other document which is to be incorporated into the contract. Before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor. The writing may also contain other matters agreed to by the parties to the contract.

The writing shall contain the following:

- (a) The name, address, telephone number and license number of the contractor.
- (b) The approximate dates, or estimated dates, when the work will begin and be substantially completed.
- (c) A description of the work to be performed, the materials to be provided to the owner, including make, model number or any other identifying information.
- (d) A notice to the owner purchasing the home improvement that the contractor or subcontractor who performs on the contract or the material man who provides home

improvement goods or services and is not paid may have a claim against the owner which may be enforced against the property in accordance with the applicable lien laws.

(e) A notice to the owner purchasing the home improvement that, except as otherwise provided in paragraph (g) of this subdivision, the home improvement contractor is legally required to deposit all payments received prior to completion in accordance with subdivision four of section seventy-one-a of the New York State lien law and that, in lieu of such deposit, the home improvement contractor may post a bond, contract of indemnity or irrevocable letter of credit with the owner guaranteeing the return or proper application of such payments to the purposes of the contract.

(f) If the contract provides for one or more progress payments to be paid to the home improvement contractor by the owner before substantial completion of the work, a schedule of such progress payments showing the amount of each payment, as a sum in dollars and cents, and specifically identifying the state of completion of the work or services to be performed, including any materials to be supplied before each such progress payment is due. The amount of any such progress payments shall bear a reasonable relationship to the amount of work to be performed, materials to be purchased, or expenses for which the contractor would be obligated at the time of payment.

Section 10. Article XVI of Chapter 863 of the Laws of Westchester County is hereby amended by the addition of a new Section 863.330 to read as follows:

Sec. 863.330 Complaints

The Sealer shall accept complaints from any person, relating to a Contractor or Home Improvement Business. In considering an application for a license or renewal under this Chapter, conducting any investigation, or determining whether to revoke a license granted under this Chapter, the Sealer may consider any complaints received.

Section 11. This Local Law shall take effect immediately, except for sections 6 and 9, which shall take effect 60 days from the date of enactment.

Nancy E. Barr
 Legislator, 6th District
 Chair, Environment, Health & Energy



Committee Assignments:
 Appointments
 Budget & Appropriations
 Law & Major Contracts
 Public Safety
 Social Services

DATE: September 12, 2018

TITLE: Home Improvement Licensing Law Amendments

SPONSORS: Legislators Barr, Johnson, Covill
 Boykin, Parker, Shimsky, Borgia, Maher

PURPOSE OR GENERAL IDEA OF BILL: To clarify and amend the application process for a Home Improvement Contracting License or renewal in Westchester County.

INTENT: To codify and make transparent the process in which the Department of Consumer Affairs vets applicants and renewal applications for the Home Improvement Contracting License to ensure consistency and fairness to each application. This bill also seeks to tighten the vetting process in order to prevent contractors who have a record of non-payment of employees from receiving or renewing a license.

JUSTIFICATION: Home owners put their trust in the contractors that they hire to not only complete the job with high quality and in a timely manner, but to also pay their workers. There has been a rising number of complaints and reports by workers who have done their jobs and simply have not been paid. While this is an issue that must be resolved with the State Department of Labor in order to recoup wages, the County can review these cases make sure that contractors who do not pay their employees are no longer licensed to operate.

PRESENT LAW: Article XVI of Chapter 863 of the Laws of Westchester County

FISCAL IMPACT: Passage of these amendments would have a positive fiscal impact for both the County and its residents.

TO: BOARD OF LEGISLATORS
WESTCHESTER COUNTY

Your Committee has reviewed “A LOCAL LAW amending Article XVI of Chapter 863 of the Laws of Westchester County in relation to the licensing of persons engaged in the home improvement business.”

Article XVI of Chapter 863 regulates the licensing of persons engaged in the business of performing home improvements. The purpose of the law is to protect consumers by making sure that only responsible individuals serve as home improvement contractors. To that end, the Sealer is empowered to consider a variety of factors in determining whether to grant, renew, or revoke a license. Among those factors, the Sealer can consider any final business related judgments against an applicant or licensee, as those judgments may reflect on how responsible the applicant or licensee is. The proposed local law makes clear that business related judgments includes judgments for the under- or non-payment of wages, as failing to pay wages to employees is evidence of how responsible the applicant or licensee is.

The proposed local law amends Article XVI to further strengthen the protections for the consumers. The proposed local law adds additional categories of activities to the definition of “home improvement,” contains detailed requirements for contracts between contractors and consumers, and formally establishes the long-standing practice of the Sealer to accept and consider complaints regarding licensees and applicants.

JRA 2018.09.07

The proposed local law also provides additional clarity for various provisions of the law, removes a provision of the law that has not been in effect since 2009, and makes a nominal change to the law by renumbering a section that had duplicative numbering.

Finally, the proposed local law increases the biannual fee for a license from \$300.00 to \$400.00, the first such increase since 2002. This fee increase is reasonable given the lengthy passage of time, to offset the costs of processing and investigating license applications.

Your Committee is aware that this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations. See Title 6, Part 617 of the New York Code Rules and Regulations (N.Y.C.R.R.). The Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law is not an action which requires any environmental review. Your Committee concurs in this conclusion.

In light of all of the foregoing, your Committee recommends the adoption of this Local Law, which amends Article XVI of Chapter 863 of the Laws of Westchester County to strengthen the protections of the Consumer Protection Code with respect to persons engaged in the practice of performing home improvements.

Dated: 2018

White Plains, New York

COMMITTEE ON

RESOLUTION NO. _____ - 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled "A LOCAL LAW amending Article XVI of Chapter 863 of the Laws of Westchester County in relation to the licensing of persons engaged in the home improvement business." The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.