



NEW MEXICO HOME BUILDERS ASSOCIATION

INDUSTRY ISSUES



Updated for 2013

Representing New Mexico Home Builders for 53 Years

MISSION STATEMENT

The **NEW MEXICO HOME BUILDERS ASSOCIATION** is a trade association affiliated with local associations throughout the state and the National Association of Home Builders. Chartered in 1959, **NEW MEXICO HOME BUILDERS ASSOCIATION** represents our members in the housing, light construction and associated industries.

Our goal is to continue to improve conditions in the construction industry thereby providing the citizens of New Mexico with safe, quality housing.

We do this by:

- Serving as the voice of our members by being a proactive influence in the legislative and regulatory process,
- Providing industry information, services and education to our membership and the public,
- Furthering the ethical and professional standards of our members,
- Maintaining the positive image of our industry and association,
- Promoting home ownership, and
- Supporting the growth and effectiveness of the "local association."

INTRODUCTION

NEW MEXICO HOME BUILDERS ASSOCIATION (NMHBA) is a 2000+ member, statewide, trade association that was chartered with the National Association of Home Builders in 1959 to improve conditions in the construction industry, thereby providing the citizens of New Mexico with safe, quality housing.

Homeownership is the cornerstone of family security, stability and prosperity. It strengthens our communities, encourages civic responsibility, and provides a solid foundation from which New Mexicans can work to support their families, enhance their communities, and achieve their personal goals.

"The strength of a nation lies in the homes of its people." Spoken by Abraham Lincoln more than 140 years ago, those simple words eloquently convey a timeless truth. The value of housing and homeownership to New Mexico and its people just cannot be overstated.

STRENGTHENING NEW MEXICO'S COMMUNITIES

NEW MEXICO HOME BUILDERS ASSOCIATION'S 2000+ members employ over 40,000 people in the communities surrounding:

Alamogordo	Clovis	Las Cruces	Roswell	Santa Fe
Albuquerque	Farmington	Portales	Ruidoso	Silver City

184 workers are needed to construct 100 single-family houses, generating \$7.6 million in wages, which in turn accounts for more than \$1.3 million in local tax revenues and fees. Housing's economic reach also extends far beyond the construction of new homes; in the first 12 months after purchasing a newly-built home, owners spend an average of \$6,500 to furnish, decorate and improve it. Over the course of the first year after the home is completed, the "ripple effect" of spending the income and taxes from the construction phase results in an additional \$3.7 million in local wages and salaries, pays another \$465,000 in local taxes, and supports 100 more jobs throughout the local community.



New Mexico Water Issues

Issue:

Water quality, quantity, and conservation are issues important to all New Mexicans. New Mexico's water law, water policy, and current usage patterns are under increasing pressures from a growing population, natural drought cycles, federal interventions, and a changing economy.

NMHBA Position:

We believe:

A free enterprise system of trade relative to water is necessary. The actions of large numbers of buyers and sellers of water will cause water to be properly valued and encourage water to seek its highest and best use. We will not support, or we will actively oppose, initiatives which have goals contrary to this commerce of water.

NMHBA encourages pursuit of innovative and new solutions to our water challenges and actively promotes construction details which advance the goals of water quality, quantity and conservation of water relative to domestic water uses.

We believe conservation solutions should:

1. Be easily understood,
2. Result in every water user bearing a share of the burden, and
3. Be perceived as fair by all who are impacted.

NMHBA supports solutions that create water-conserving motivations within all impacted water users.

Water policy must not be used as a tool of "no growth" movements. We believe our water challenges can be solved in a manner that allows continued population growth and continued economic prosperity into the foreseeable future.

The Endangered Species Act must allow capacity for human population growth and continued economic prosperity within the geographic areas impacted by that law.

Our Association will support regulation to protect our water quality by requiring every domestic liquid waste disposal system be fully functional to current standards upon the transfer of the home from one owner to another owner.

Our Association will promote changes to reduce the allocation allowed for household and domestic use, especially in Critical Management Areas, from the currently allowed three acre feet annually to one acre foot or less annually. For areas not served by municipal water systems we will oppose efforts to grant the power to stop the drilling of wells for household and domestic use. We will promote the goal of statewide requirements for meters on all domestic wells, which must be coupled with creation of a meaningful process of verification that the amount of water drawn annually is appropriate under the rules of the area.



Development Fees

Issue:

The Development Fees Act became law in 1993. The Act regulates fees for off-site infrastructure expansion to new construction. The purpose of this landmark legislation is to assure that any impact fee on new construction is fair, predictable, uniform and site specific.

Many New Mexico communities experienced growth-related problems in the past. Implementation of the Development Fees Act is only one of the tools available to help local officials and developers provide the off-site infrastructure necessary to service newly developed areas.

NMHBA Position:

We believe:

Infrastructure funding through Development Fees dramatically raises the cost of a new home, and should be used only as a "last resort" method of providing vital off-site infrastructure. Other more equitable and cost-effective infrastructure funding mechanisms such as Public Improvement Districts, Public Infrastructure Financing, and Special Assessment Districts are preferable.

The Development Fees Act achieves its goals when government and developers make a conscientious effort to maintain the spirit and intent of this law. Implementation involves a strenuous planning process. Funds raised through development fees must no longer go into the "general fund", and strict accountability is required. While this may be problematic to local government officials, we firmly believe local government owes nothing less to the homebuyers who paid these fees.

We support the Act's provision for a local governmental entity to exempt fees, including those for school construction, from development fee imposition. The value of the exemption should be made up from general funds in the entity's control, and not from developers alone.

Some governmental entities are not following the legal guidelines regulating monetary exactions as a condition of development. Excessive processing fees, inclusionary requirements, and water rights transfer application costs are being assessed in order to skirt the Development Fees Act. This is wrong and outside the intent of the Act.

Development fees must be site-specific, fair, uniform and predictable.



Construction Industries Division And Commission

Issue:

Construction Industries Division and the Construction Industries Commission are important because they set standards for our health and safety as they relate to the construction of buildings in which we live and work. The work of the Commission must be accomplished professionally and effectively. Budgets must allow the Division staff to properly execute the job.

The mission of the Construction Industries Division and Commission are not well understood by legislators and the public. Fees collected for licensing, permits, and inspections are deposited into the state's General Fund and subsequent funding of Division activities is subject to annual political whims of the Legislature, often resulting in mis-matches between needs and available funding.

External pressures on the Construction Industries Division have resulted in the perception that the national energy code is more important than the structural, electrical and mechanical issues in the traditional life/health/safety codes. Adding more inspections of energy components on top of the traditional codes may require construction inspection service entities to take on more work with no additional revenue offset, causing delay and strain on already diminished resources. The addition of these energy code inspections are on top of unfounded federally-mandated inspections such as the American Disabilities Act (ADA) inspection requirements that were added without provision for training of inspection personnel nor funding for additional resources due to additional workload in plan review and lengthier field inspections.

NMHBA Position:

We believe:

Code adoption and code enforcement are extremely important for the public, as well as contractors in New Mexico. The Construction Industries Division (CID) must function as managers of inspection resources and as the “clearing house” for code interpretations to promote statewide consistency.

The public has a right to expect professional and adequate building code compliance services for the fees collected. CID must be properly staffed by appropriately trained people who are capable and willing to enforce the primary standards of health and safety set by the Construction Industries Commission. Funding must be adequate to facilitate this service. Efforts to pull resources from traditional code enforcement to additional codes such as the American Disabilities Act, energy efficiency, and water conservation should be resisted unless sufficient training and resources are provided to avoid their impact on the ability of state and municipal inspection service entities to provide timely services on the primary health and safety codes.

The construction industry has experienced wide swings between tremendous growth and deep recession. Governmental entities are not designed to react to these swings quickly, and steps should be taken in the current “slow” period to increase efficiencies in the provision of inspection services on both the local and state level. CID is uniquely positioned to promote greater efficiencies by changing its rules to include inspection-efficiency concepts such as:

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- Accepting Combination Residential and Commercial Combination Inspector certifications;
- Contract inspection service entities; and
- Agreements to share code compliance resources with local political subdivisions.

Statewide uniformity in contractor licensing facilitates the free and efficient flow of construction services throughout New Mexico. These efficiencies must be recognized and maintained.



Energy Efficiency

Issue:

We acknowledge that energy efficient building features are a high priority for many construction industry regulators and a significant consideration for our customers. Demand for highly energy efficient homes has provided builders with an important marketing tool.

The public's desire for energy consideration has been reflected in pressure from both the federal government and climate control activists to emphasize the national energy code as a policy issue.

Building contractors and remodelers acknowledge that we are viewed as being in a uniquely advantageous position to create building energy efficiency features during the course of our work. We can therefore expect to be at the center of efforts to promote energy efficiency. We must be prepared to be active participants in the discussions and decisions regarding the creation, implementation and inspection of new code measures intended to support energy efficiency.

NMHBA Position:

We believe:

Construction related energy efficiency mandates must be carefully balanced against the important realities of the time including competition for economic development, equity-creation thru property ownership and job creation, all of which strongly influence the demand for construction products and services.

Building energy efficiency related mandates must be evaluated relative to:

1. Realistic estimates of the probability of successful field implementation; and
2. Long-term effectiveness; and
3. Long-term value; and
4. Consideration of effective strategies by state and municipal inspection service entities to provide timely services without causing construction delays.

Proposals which do not score highly against these standards must be rejected.

Both prescriptive and performance standards can be burdensome to state and local inspection service departments. This action should be tempered by permitting independent energy consultant reports in lieu of governmental inspections to avoid the likelihood of increased permit fees to builders or the trimming of life/health/safety inspections.

One successful strategy is to implement flexibility in meeting the goal of energy reduction through adoption of a standardized performance-based matrix. Prescriptive mandated energy efficiency regulations can be too restrictive in an environment where new products are rapidly being introduced into the market. Mandated energy efficiency regulations must allow prescriptive solutions as well as meaningful "trade-off" strategies for achieving goals. Practical and cost-effective solutions must be encouraged and supported. Overly complicated and unsustainable solutions must be avoided.

Construction regulations should not be used as a tool to regulate personal lifestyles and habits. We believe it is important for policy makers to recognize that the majority of household energy consumption is the result of personal decisions irrelevant and unrelated to our efforts on building codes. Failure to take this reality into account promotes over-reaching regulation and false expectations to the detriment of our industry and our customers.

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General uniformity of building codes and product standards supports our ability to deliver cost-effective construction services and competitively-priced buildings. If efficiency mandates for common mass-produced building components (such as boilers, furnaces, air conditioners and water heaters) are created they are best created at the federal level in order to preserve the efficiencies of scale on a nationwide basis.

We will consider supporting mandatory building code energy efficiency inclusions provided they:

- 1) Are cost-effective across all price ranges; and
- 2) Exhibit a 7-year payback or better when analyzed for today's costs versus demonstrated benefits; and
- 3) Have been proven technically feasible without creating unusual construction defect liability; and
- 4) Can reasonably be expected to provide long term benefits with minimal maintenance; and
- 5) Are based on sound building science showing applicability for New Mexico's varied environments; and
- 6) Maintain the opportunity for us to keep our customers satisfied with the results we produce for them; and
- 7) Allow us to offer regionally competitive products and services.



Contractors Right To Fix Construction Defects

Issue:

Residential construction quality issues surfaced as a big problem beginning in 2000. As state regulators across the country have grappled with how to determine who is responsible for correcting construction defects, various states have enacted laws that require mandatory dispute resolution, establish Recovery Funds to reimburse homeowners for the cost to fix problems, or require giving the original contractor the right to try to fix the problem before a lawsuit may be filed.

In New Mexico the Contractor's License Bond was changed to provide up to \$10,000 for a property owner to pay a contractor to correct code violations made by the original contractor. This change was made as a direct result of pressure placed on the Legislature by consumer protection advocates who wanted a Recovery Fund enacted in our state.

NMHBA Position:

We believe:

Buildings are constructed by combining thousands of various components, often in complicated custom configurations, using materials which change in nature as they become "dried in" and take their place within the new structure. Under these conditions defects are bound to occur from time to time.

Every builder should give a reasonable warranty to buyers of their products, and homes should be built to conform to both applicable building codes and accepted industry standards.

When defects do occur, builders have a right to be notified of the defects, have a right to inspect the problem, and have a right to propose and undertake a process to resolve the defect.

This right to fix and alternate dispute resolutions promoting these processes should be provided for in contracts between general contractors and subcontractors, and between contractors and their customers. We believe this is a good business practice and at the same time we believe these solutions should not take away the ultimate right for any party who believes they have been damaged as a result of a construction processes to have their "day in court."

We support extending this opportunity for contractors to correct their mistakes through the investigative process of the Construction Industries Division (CID) for determinations of code violations that may result in action against a contractor's license and/or payout against a contractor's license bond.



Tax Lightning

Issue:

Historically property taxes were levied based upon the assessed value of real estate regardless of the status of who owned it. Creating special classes of owners started with people over 65, veterans, and low-income owners. This is where the problem began.

Skyrocketing property taxes were an unfortunate side effect of rapidly escalating property values in the 1980s and 1990s. This caused financial hardship for persons on fixed incomes who wanted to continue living in their highly valued real estate, but didn't have the cash to pay when hit with the “tax lightning” of greatly increased property taxes.

In an effort to fix the system for low cash flow residents living in very valuable properties the Legislature passed a 2001 Constitutional Amendment that linked the revaluing of a property to the situation of the person(s) who owned it. Now existing homeowners were a large “special class” of owner who were guaranteed their valuations for property taxes would not increase by more than 3% per year.

Adding on to an existing home or moving to a new home would mean a sudden value increase based upon the real “current and correct” value, further escalating the “tax lightning” hit. When homeowners discover they are paying up to twice as much tax as their neighbors in similar homes, they complain of unfairness in the tax law.

The failure of county assessors to keep all property assessed at “current and correct” values as required by law further exacerbates the perception of unfairness.

The unintended consequence of the “fix” for tax lightning was more of the tax burden was shifted to easy-to-value properties, like new homes and recently-sold existing homes. The lightning strike was just aimed at a different target. This affected the market for new homes further as existing homeowners based their decisions to move or stay put as a tax decision rather than a real needs decision. The longer they had been in their existing home, the more likely they were to stay where they were, instead of moving to a more appropriately-sized residence. For our communities this is not good.

Any program that allows a group of current homeowners to shift their tax liability to buyers of new homes puts the new home building industry at a disadvantage. The 3% cap on increased property taxes was recently ruled to be unconstitutional by two New Mexico courts, and the NM Court of Appeals agreed to review the issue.

NMHBA Position:

We believe:

Any changes in our property tax law which address tax lightning should not substitute one inequity for another, such as the creation of more “special classes” of owners. If the historical problem of tax lightning requires a solution, then the cost of any remedy should be spread over the entire community.

Transfer taxes and other similar taxes have been promoted as a solution to “tax lightning”, however these types of proposals are directed only at certain home buyers as a “punishment” for buying a particular property and do not spread the solution over the entire community, and are therefore wrong as well.

The 2001 Constitutional Amendment should be repealed and property taxes should simply be based upon true “current and correct” valuations.



Workers' Compensation

Issue:

The 1991 Special Session of the Legislature enacted extensive workers' compensation reform. New Mexico's system is widely regarded as a model for the nation, taking care of injured workers and getting them back on their jobs.

The 1991 reform created the Workers' Compensation Advisory Council, with representatives of business, labor and government, as the forum for ongoing debate of workers' compensation laws and operations.

NMHBA Position:

We believe:

The public and private processes which deal with Workers' Compensation are constantly in a state of flux. We must keep ourselves informed about these processes and work to avoid deterioration in the efficiency and fairness of New Mexico's systems.

New Mexico Home Builders Association is committed to preserving New Mexico's outstanding workers' compensation system, and strives to support the Workers' Compensation Advisory Council processes.

NMHBA is a member and supports efforts of the Business and Labor Workers' Compensation Coalition.

Workers' Compensation should be maintained as the exclusive remedy for work-related injuries.



High Performance Building

Issue:

As people have become more aware of building science issues, “High Performance Building” has become a popular concept with the public, builders and governments.

High Performance Building is a broad concept including (but not limited to):

- Resource Efficiency
- Energy Efficiency
- Water Conservation
- Indoor Environmental Quality
- Operation, Maintenance, and Occupant Education

The National Association of Home Builders has responded with a program to provide standardized construction and development guidelines across the nation to help builders and developers respond to their customers’ requests for high performance practices and features in home construction.

In addition, federal requirements on manufacturers like low flow shower heads and toilets, and increased energy efficiency in plumbing and mechanical components and appliances have resulted in dramatic increases in conservation of water and energy compared to those homes built before 1980.

Over 30 years ago New Mexico adopted the Residential Energy Conservation Code Guidelines to incorporate energy-saving concepts into residential construction. Many homebuilders are incorporating “high performance” elements into their homes to achieve the quality and performance their customers have requested. Some builders have gotten into the front of the issue and helped to lead the demand.

NMHBA Position:

We believe:

The use of voluntary programs should be encouraged. In New Mexico water conservation will always be important, regardless of drought conditions. Water conservation in our state is just as important as energy efficiency, and performance standards such as WaterSense and NAHB’s Green Building Standards are effective as they allows modifications so superior water conservation may be rewarded.

We support incentives to help offset additional costs of High Performance Building, provided the guidelines or standards are reasonable, achievable, and based upon consensus-based building science. Incentives should also be available to upgrade existing homes, because older homes are usually far less energy-efficient and less water-conserving than those built today.



Sustainable Building

Issue:

There are a variety of definitions of “sustainability”. Through this Position Statement New Mexico Home Builders Association seeks to define the term as we believe it should be used.

Construction sustainability considers the environmental, health/safety, and cost effects of material use and operations from a life-cycle point of view including the impacts of products from raw material extraction and processing, shipping, installation, and product use to ultimate disposal balanced by the practical need for the structure which is being created.

NMHBA Position:

We believe:

Sustainability means a balance between meeting our needs in the present without compromising the potential of future generations meeting their needs, based on reasonable assumptions of future conditions. We will support application of this concept in voluntary programs and tax incentives offered by the state.

New technology must have its environmental value weighed against the reasonable expectation for the ability of the homeowner to maintain the technology at an operational performance level. We will encourage education of the homeowner of the need to maintain their home will extend the home’s life cycle and aid in a long return on the investment.

The cost of conservation and continuous cyclic use of materials, water, natural resources, energy, and recycling options are major considerations when designing and building sustainably, and our actions should encourage this to occur.

Water use efficiency and discharge quality should be maximized to the extent it is economically feasible. Water sources that are appropriate to the end use should be sought out and utilized.

Care in assembly of the components of a home will ensure they perform optimally for their expected life cycle. Opportunities to improve the quality of construction should be pursued when they can be achieved at a reasonable cost.

HOW TO REACH US

NEW MEXICO HOME BUILDERS ASSOCIATION

5931 Office Blvd., NE, Suite #1
Albuquerque, NM 87109
Phone: 505-344-7072 / 800-523-8421
Fax: 505-344-3103
www.nmhba.org

New Mexico Home Builders Association's Affiliated Local Home Builders Associations

BCA of Otero County
(Alamogordo)
Phone: 575-437-2066
Fax: 575-437-2218

San Juan County HBA
(Farmington)
Phone: 505-327-2678
Fax: 505-326-2895

HBA of Central NM
(Albuquerque)
Phone: 505-344-3294
Fax: 505-345-3795

Santa Fe Area HBA
Phone: 505-982-1774
Fax: 505-982-0238

HBA of Eastern NM
(Clovis & Portales)
Phone: 575-762-4342
Fax: 575-762-4342

South Eastern NM HBA
(Roswell)
Phone: 505-344-7072
Fax: 505-344-3103

HBA of Lincoln County
(Ruidoso)
Phone: 575-354-1482
Fax: none

South West NM HBA
(Silver City)
Phone: 575-574-2523
Fax: none

Las Cruces HBA
Phone: 575-526-6126
Fax: 575-525-8598

