



## Myth-Busting the Port Chester BOT Election – April 2019

During the recent election for Board of Trustees, there were a number of false or misleading statements made by candidates concerning community benefits, union labor and affordable housing. This report addresses some of these statements in an attempt to set the record straight.

### **Myth: Community Benefits Agreements are too expensive for developers in Port Chester**

Trustee Ferrara: “A community benefits agreement as people around the village have asked for consists of 20% or 30% affordable housing and union wages on the jobsite. I have never been supportive of this because it would basically stop development in its tracks. In New York City, they have a policy called Affordable New York. It calls for 30% affordable housing and union wages through a project labor agreement. They mandate buildings of minimum 300 units and they forgive taxes for 25 years. But in New York, building owners get triple the rent that we get here in Port Chester.”

### **Reality: Developers, like other corporations, sometimes make empty threats.**

Trustee Ferrara is repeating a common talking point from developers when he claims the sky will fall if Port Chester institutes community benefits policies. We believe developers are merely making empty threats designed to intimidate lawmakers and prevent any measures that will limit the amount of profit that can be generated from real estate.

There is a long history of corporations making harsh threats to prevent governments from passing policies that will protect people but threaten profits. In 1901, for example, the Dwight Manufacturing Company threatened to leave Alabama if the state abolished the use of child labor.<sup>i</sup> In reality, developers would likely adjust to community benefits policies in Port Chester, just as they have adjusted in Newark, NJ, which has strong labor standards and affordable housing requirements and is currently experiencing a building boom.<sup>ii</sup>

Trustee Ferrara has also pointed to Yonkers, where the IDA passed for one year and then dropped its mandate that major projects receiving subsidies pay construction workers prevailing wages. Ferrara pointed out that developers stopped new construction in Yonkers for the year in which the labor policy was in place. But the problem in Yonkers was that the policy was passed as a one-year pilot program, rather than as a permanent requirement. Developers could afford to wait it out for a year and then misleadingly portray the policy as a jobs-killer.

### **Reality: Land costs are dramatically cheaper in Westchester, leaving more money for community benefits.**

More importantly, Trustee Ferrara is ignoring one of the most critical factors when he compares development in Port Chester and New York City: land costs. The cost of land in Port Chester is dramatically cheaper than in NYC, leaving developers in a much better position to afford union labor and affordable housing in Port Chester.

We did a quick study that helps illustrate this point. We took a look at the top 15 most expensive sales of land for development over the last two years in New York City and in Westchester. We used data from respected real estate database Real Capital Analytics (RCA), which tracks all land transfers over \$1 million. We took the top 15 because, according to RCA data, there were only 15 development site sales in Westchester over the last two years that were over \$1 million. Here is what we found:

Total property price, Top 15 most expensive development site sales over past 24 months	
Source: Real Capital Analytics	
Westchester average	\$9,674,667
NYC average	\$205,659,120
Westchester median	\$5,770,00
NYC median	\$165,000,000

Price per square foot, Top 15 most expensive development site sales over past 24 months	
Source: Real Capital Analytics	
Westchester average	\$259
NYC average	\$534,383
Westchester median	\$79
NYC median	\$7,584

As you can see, there is simply no comparison: land prices in Westchester are overwhelmingly cheaper. Moreover, development site sales in Port Chester are likely even lower than the Westchester average, leaving even more money for developers to spend on community benefits and still generate sizeable profits.

**Reality: Trustee Ferrara drastically overstates differences in rents between Port Chester and NYC.**

In addition to ignoring the difference in land costs, Trustee Ferrara made a patently false claim: that rents in New York City are *triple* what landlords get in Port Chester.

Most of the large development that will be created by the village-wide rezoning will be luxury apartment buildings like The Castle and The Mariner projects on Willet Avenue. These buildings are currently asking for rents that amount to between roughly \$33 to \$38 per square foot per year. That's not tremendously lower than the \$43.80 per square foot average rent in Brooklyn. And there are one-bedroom apartments in both the Castle and the Mariner that are more expensive than the current median monthly rent for one-bedroom apartments in Manhattan of \$3,450.<sup>iii</sup>

Certainly, NYC rents are generally higher, but they are nowhere near three-times as high as the rents at luxury apartment buildings in Port Chester.

**Myth: Prevailing wages and union labor wildly drive up construction project costs**

Trustee Ferrara: *"The Port Chester IDA did an entire labor study and we held a big public hearing in October 2016. And we found out that labor mandates on a project increase the cost of that project – not the cost of labor but the cost of the project – by 20 to 30 percent. Nowhere in Westchester County are there labor mandates. And the reason is because you won't get any development."*

**Reality: Trustee Ferrara is using flawed studies of labor costs and again ignoring Westchester's much lower land costs.**

Trustee Ferrara's claim that "labor mandates on a project increase the cost of that project... by 20 to 30 percent" has been widely questioned and never proven. This claim has been circulating widely in fiscally conservative circles since it was put forth in January 2016 in a flawed report from New York City's Independent Budget Office (IBO). The IBO report was included in a list of studies that Ferrara sent to fellow members of the Port Chester IDA Board in October 2016.

Technically, the IBO study found that prevailing wages increased construction costs by 23 percent on certain affordable housing projects in New York City. But as economist James Parrott pointed out, the IBO failed to account for all the costs added to some of these projects by federal guidelines unrelated to wages. "It is a logical leap to attribute all of [the construction cost increases] to prevailing wage requirements," wrote Parrott, now Senior Director for Fiscal and Economic Policy at the New School.

Parrott later told a real estate publication, *"Given the limitation of the IBO analysis, it should not be used to inform a discussion in the public policy sphere."* Yet that is exactly what Trustee Ferrara is doing, using the flawed IBO study to make decisions about public policy.<sup>iv</sup>

Ferrara circulated other flawed reports as part of his "entire labor study" in October 2016. Assessing the methodology used by another report Ferrara sent to IDA members, economists Russel Ormiston, Dale Belman and Matt Hinkle wrote, "This approach is mathematically simple. But it also violates the laws of economics."<sup>v</sup>

Reputable studies have found that union wages and benefits do in fact increase *labor costs* by 10 to 20 percent on a project, but that's labor costs, not the full set of construction costs for a project.<sup>vi</sup> Of course, with the widespread safety violations and wage theft that occurs in the nonunion construction industry, projects that actually pay their workers family-sustaining wages and benefits and ensure that workers receive proper safety training are going to cost more.

But even though they eliminate dishonest and illegal cost-cutting practices, labor standards don't increase construction costs nearly as much as Trustee Ferrara is claiming. Some of the cost difference is made up by the far greater productivity of union labor – in other words, the ability of union workers to complete the job faster and with less need for repairs than their nonunion counterparts. Additionally, Westchester building

trades unions recently launched a major “market recapture” initiative to lower their costs and become more competitive with nonunion contractors.

Finally, Trustee Ferrara is also again failing to take into account the much cheaper land prices in Westchester County, which leave developers with capital spend on things like family-sustaining wages and benefits and life-saving training for the workers building their construction projects, rather than relying on irresponsible contractors with records of stealing wages from their employees or exposing them to dangerous safety hazards.

***Myth: The Village can't require that new affordable housing be reserved for Port Chester residents***

Trustee Didden: “We need more affordable housing for our own people. That flies against the ideas of fair housing. Everybody should have every opportunity. You can't say Port Chester first. It doesn't work that way.”

Trustee Ferrara: “You can't build affordable housing for your own. You can't have a residency requirement.”

***Reality: It is perfectly legal for the Village to require that new affordable housing in Port Chester be reserved for Port Chester residents, and the Trustees have been corrected on this repeatedly.***

Trustees Ferrara and Didden's assertion that it is illegal for the Village to reserve newly constructed affordable housing for Port Chester residents is simply false, and these trustees have been corrected on this issue repeatedly.

In 2016, Mark Chertok, special counsel to the village on the United Hospital redevelopment, went out of his way to explain that requiring that newly constructed affordable housing in the village be reserved for Port Chester residents is perfectly legal as long as the requirements aren't “durational,” meaning as long as there isn't a requirement for residents to show they have lived in the village for a certain amount of time.

[The memo on the issue Chertok submitted to the trustees](#) states:

If the Village required the Project to include affordable housing, it could not... require that a person show he or she has lived or worked in the Village for a minimum period of time...***but it could...require that a person show he or she is a resident of the Village or works in the Village...***<sup>vii</sup> [emphasis supplied]

A recording from the September 6, 2016 Board of Trustees meeting shows Chertok again and again telling the Trustees that such a requirement is okay as long as it isn't “durational.” And, again and again, some of the Trustees interrupt Chertok and state that preferences just seem altogether too legally risky.

For the last two-and-a-half years, Alliance members and supporters have testified publicly before the board on numerous occasions citing Chertok's assessment that the Village can indeed require developers to set aside affordable housing for Port Chester residents. But apparently, Trustees Ferrara and Didden, neither of them attorneys, are doubling down on their own legal analysis.

***Myth: Rent regulation is a bad idea in Port Chester because it tends to discourage building***

Trustee Ferrara: “I'm sure the concept of rent control would come up. To me, it's never a good idea. New York City's had rent control since 1947, and they have nothing but an ongoing affordability crisis. Rent control tends to discourage building without massive, massive subsidies.”

***Reality: Port Chester already has rent regulation, and no, it doesn't discourage development.***

This statement was truly puzzling. First, is Trustee Ferrara unaware that Port Chester already has rent-stabilization, which is also the primary form of rent regulation in New York City?

Trustee Ferrara seems to have used the term “rent control” in the way that many use the term as short hand for rent regulation. The overwhelming majority of rent-regulated apartments in New York City are actually what is called *rent-stabilized*, meaning the city’s rent guidelines board determines how much their landlords are allowed to raise rent each year. Only about 2% of NYC housing units are “rent controlled,” meaning residents’ rents are much more tightly regulated and tenants effectively pay close to 1970s-level rents. The number of *rent-controlled* units in NYC is drastically declining because tenants have to have been living in their apartments since before July 1971 to qualify for rent control.

Like New York City, Port Chester has *rent-stabilization*. As of 2011 when the village last commissioned a study of housing conditions, 441 units in 22 buildings in Port Chester were rent-stabilized because the village is one of the 18 communities in Westchester that opt into what is called the Emergency Tenant Protection Act (ETPA).<sup>viii</sup> With some exceptions, in Port Chester, apartments in building with 12 or more units that were built before 1974 are rent-stabilized under the ETPA, and their rents can only be increased by amounts set each year by Westchester County’s rent guidelines board.<sup>ix</sup> The policies in NYC and Port Chester are already very similar, so Ferrara’s statement is quite peculiar.

Trustee Ferrara is also citing a myth from real estate interests that rent regulation discourages development. Most moderate rent-stabilization in the United States only applies to housing already built at the time of its passage, not to new units built after rent-stabilization was instituted, so there is little effect on new development.<sup>x</sup>

### ***Myth: Supply and demand are the most important factors in determining whether housing is affordable***

Trustee Ferrara: *“The fact is that there hasn’t been a lot of building in throughout Westchester County and especially in Port Chester over the last 25 years. If the number of people that want to live here increases...and you’re not expanding supply, the price has only one way to go [up]. This is the reason why we have so much makeshift, unsafe housing. That has become, very sadly, Port Chester’s affordable housing...We need smart growth to show us the way ahead.”*

Trustee Didden: *“I fail to see how we can section off Port Chester from the market forces. It is supply and demand.”*

### ***Reality: Rents don’t follow simple free market models. But they do get driven up by speculation from real estate industry.***

Trustees Ferrara and Didden’s remarks here are based on an idea that is hotly contested: that housing prices and conditions are merely a result of the interaction of supply and demand. A number of economists and housing analysts have been pointing out that there is little evidence that increases in housing costs are a result of a constrained supply of housing units.<sup>xi</sup>

But what certainly does drive up housing costs is *speculation*. Housing has become a financialized commodity controlled by investors across the world. These investors respond not to local signals like working residents’ need for more or better housing, but to a range of other factors that create the conditions for generating financial returns.<sup>xii</sup> When a real estate market gets hot in a community, as it could in Port Chester following the rezoning, investors get into a race to see who can make bigger profits by redeveloping “underdeveloped” real estate – meaning not just empty properties, but also housing and stores that don’t already generate high rents. As a result, of course, rents rise. Tenants who live in a community experiencing this phenomenon need protections – like the kinds we propose in our [Blueprint for a Fair Rezoning](#) – or they may find themselves no longer able to afford to live in their homes

Finally, Trustees Ferrara and Didden’s claims are based on the assumption that the developers who will build in Port Chester are interested in constructing apartments for local working-class residents. But the village has been courting developers who plan to build housing to attract wealthy new “Millennials” to Port Chester. The tenants of the “makeshift, unsafe housing” that Ferrara cites will not be able to afford the shiny luxury apartment buildings that village officials like himself hope to create with the rezoning, and so-called “smart growth” will do little to increase the supply of housing available to these residents.

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## Endnotes

- <sup>i</sup> Chaim M. Rosenberg, *Child Labor in America: A History*, (Jefferson, NC: McFarland & Company, 2013), page 169
- <sup>ii</sup> [https://www.mayorsinnovation.org/images/uploads/pdf/10\\_-\\_Newark\\_Ordinance.pdf](https://www.mayorsinnovation.org/images/uploads/pdf/10_-_Newark_Ordinance.pdf);  
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- <sup>iii</sup> <https://www.elliman.com/pdf/31b5d080010dd5779ae9cdd485eb0d22340cf06b>
- <sup>iv</sup> <https://therealdeal.com/2016/02/11/in-421a-prevailing-wage-dispute-the-real-numbers-are-murky/>
- <sup>v</sup> <https://www.epi.org/publication/new-yorks-prevailing-wage-law-a-cost-benefit-analysis/>
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- <sup>x</sup> <https://www.dailykos.com/stories/2015/11/5/1444059/-Paul-Krugman-It-3-You-But-You-re-Wrong-About-Rent-Control?>
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- <sup>xii</sup> [http://www.miguelangelmartinez.net/IMG/pdf/2016\\_Madden\\_Marcuse\\_Defense\\_Housing\\_book.pdf](http://www.miguelangelmartinez.net/IMG/pdf/2016_Madden_Marcuse_Defense_Housing_book.pdf)