

August 2, 2017

Honorable Larry Cantwell  
Supervisor  
Town of East Hampton  
15 Pantigo Road  
East Hampton, NY 11937

RE: Testimony of Public Hearings 2017-799 and 2017-800 relating to septic systems

Dear Supervisor Cantwell:

The Long Island Builders Institute wishes to provide the following comments relating to the public hearings being held by the East Hampton Town Board on August 3, 2017 numbered 2017-799 relating to the installation of septic systems and 2017-800 relating to the creation of a rebate program for the installation of certain low nitrogen septic systems.

In relation to Resolution 017-799, while we strongly support the concept of a replacement program for the installation of new low nitrogen septic systems, we believe that this resolution can be improved in two aspects: First, as recently enacted by the Town of Southampton, the mandatory requirement relating to new construction should only be required in environmentally sensitive or protected areas of the town. It is clear that certain areas of the town of East Hampton are more sensitive to nitrogen flow into the groundwater than other areas and a mandatory program should start first with such areas to ensure that the systems and the town process for the installation of such systems can be implemented in an efficient and timely manner. In view of the significant issues involved in the installation of such systems and the cost involved, which has been estimated to be around \$30,000, a gradual implementation of any new mandatory requirement should be enacted for those areas which are the most environmentally sensitive in the town.

Second, the need to replace systems which fail is an essential component of reducing nitrogen flow into the groundwater and such owners should be required from the beginning of this process to install a new low nitrogen septic system rather than being able to replace or repair their current system which has failed and which is putting significant large amounts of nitrogen into the ground. The manner in which Chapter 210, Article 3, Section 1, paragraph 4 is written may not require such failed systems to be replaced with new low nitrogen systems. While one could make the argument that (b) (2) refers to such systems, it is not specific enough to ensure that such systems could not be repaired or replaced with an existing high nitrogen system, the same type of system which has just failed on the property. In all cases of failure, the existing failed system should not be allowed to be repaired or replaced with the same type of system but must be required to remove the failed system and a new low nitrogen system be installed. Only in this manner will protection of the groundwater be achieved.

With regard to resolution 2017-800, while once again supporting the use of Community Preservation funds in this manner, we would suggest that the definition of "approved costs" include all permit fees required under county and town law, or in the alternative, the town board of East Hampton should exempt such property owners from the required permits under town law. Such permits could run into the hundreds of dollars and it is only fair for the town to either reimburse the property owner for the fees or in the alternative eliminate the fees completely, which has recently been enacted by the towns of Islip and Riverhead.

Second, we would express our concern over the restricted definition of "residential property owner" to only those who are Basic Star income eligible, but there is no corresponding restriction on the income of commercial property owners. The program approved by the Suffolk County Legislature and the program currently being considered by the Southampton Town Board reflects larger income restrictions upon residential property owners, thus making more of our citizens eligible for the rebate program. In addition, commercial property owners would not be eligible for such rebates under those programs, a position which we support.

The reduction of nitrogen flow into the groundwater in all parts of Suffolk County must be accomplished in an efficient and fair manner. While LIBI would hope that one legislative resolution in the Suffolk County Legislature would accomplish this goal for all of our citizens in the county, the passage of separate legislation by certain of our towns seems inevitable. With that in mind, we would request that our suggestions be evaluated in this manner and that any legislation enacted by the Town of East Hampton be as close as possible to such legislation enacted or being enacted by the Town of Southampton.

Thank you very much for your consideration of our views.

Sincerely,  
  
Mitchell H. Pally  
Chief Executive Officer

Cc: Members of the Town Board