HABITAT Governance

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Clearing Up Confusion Over the Climate Mobilization Act

By William D. McCracken

The Climate Mobilization Act — the landmark legislation aiming to reduce carbon emissions in New York City's building sector by 40% by 2030 and 80% by 2050 — exists in a strange place in cooperative and condominium circles. On the one hand, many board members have recognized the transformative impact that the CMA will have on how their buildings will operate, and they're either energized or horrified by the prospect. In my experience, however, most board members and property managers still have only a vague sense of what the CMA means for their buildings. Here are some common expressions of that confusion:

"I heard the CMA is about to be struck down." It is true that back in May 2022 a group of property owners based in Queens filed a lawsuit seeking to invalidate Local Law 97, the section of the CMA that sets carbon emission caps and fines. It's not for me to say whether the lawsuit will ultimately be successful, but I can say with certainty that nothing will be finally decided anytime soon. The city just filed a motion to dismiss the lawsuit, and that motion won't be submitted to the court until the end of October. Whatever the trial court decides, it's certain to be appealed up to the highest court, a process that typically takes several years. Don't expect this lawsuit to get anyone off the hook anytime soon.

"I heard the new mayoral administration is going to water down the CMA." I don't have a crystal ball, and it's certainly possible that Mayor Eric Adams will take a more lenient approach (for good or ill) to some of the enforcement mechanisms in the CMA. Observers are looking to the end of this year, when the Department of Buildings is scheduled to release a set of CMA rules and regulations, which will give us a better indication of the new administration's priorities.

“My building has an A energy grade, so what do I have to worry about?” This is an unfortunate source of confusion. Building letter grades were established under Local Law 33/95, and they are derived from a building’s ENERGY STAR score, which is a measure of the building’s energy efficiency compared to buildings of similar size and use nationwide. Local Law 97 of the CMA is based on the building’s total greenhouse gas emissions. In short, your building’s energy grade has little, if anything, to do with your building’s likelihood of annual fines for excessive carbon emissions. Your A grade won’t save you from fines, nor will an F grade automatically mean that you will get fined. It’s a case of apples and oranges.

“I was told that my building won’t have to do anything until 2030.” The kernel of truth here is that most (though certainly not all) buildings will comply with the initial emissions limits beginning in 2024 and running until 2030, when the emissions limits are lowered. However, anyone who has ever tried to implement a major capital project in a large co-op or condo building knows how long it takes to get owner approval and financing, negotiate contracts, secure permits and perform dozens of related tasks. Moreover, if a building replaces a boiler or a roof today without thinking through the CMA implications, it could unwittingly be committing itself to a very expensive retrofit project just a few years down the line.

For those board members and practitioners who are up to speed with the CMA, it’s obvious that the time to act is now. Before undertaking all of the work that needs to be done, their first job is to cut through the CMA confusion listed above and get their neighbors and colleagues on the same page.

Bottom line: this law is here to stay, so start making preparations now.

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