



111 WASHINGTON AVE, SUITE 501
ALBANY, NEW YORK 12207

WWW.FWC-LAW.COM

PHONE: (518) 436-0786
FAX: (518) 427-0452

The Week That Was

06-14-19

1. Clash of the Titans!

Our Spin:

For decades the real estate industry fended off rent reform advocates by standing side by side with the Republican Senate majority. Wait - no Republican majority, no problem; the Governor will keep the rascals at bay! Whoops, the Governor said, "let the legislature legislate, and they did." Anybody know where we can find a courthouse??

The Story:

Less than a day after newly emboldened Democratic lawmakers announced bills that would significantly tighten tenant protections, prominent real estate developers got Governor Andrew M. Cuomo on the phone to make a last-ditch plea to persuade him to block the measures. But on Wednesday, Mr. Cuomo rebuffed the developers, telling them that "they should call their legislators if they want to do something about it," said a person briefed on the call, which lasted about 15 minutes. The phone call capped a humiliating moment for an industry that had long reigned in the state capital.

The bills announced on Tuesday night by the Democratic leaders of the State Senate and the Assembly would abolish rules that let building owners deregulate apartments and close loopholes that permit them to raise rents. The legislation would directly impact almost one million rent-regulated apartments in New York City, which account for more than 40 percent of the city's rental stock. Real estate industry groups said the bills would do serious damage to housing in the city by reducing incentives for landlords to renovate existing apartments and to build affordable new ones.

Republicans had dominated the State Senate for most of the last century and formed a close alliance with the New York City real estate industry, which donated heavily to Republican senators. The elections in November not only brought Democrats to power in the State Senate, but also saw the rise of progressive lawmakers who fiercely opposed real estate interests. "There was some arrogance on the part of the real estate industry that was based on how things have functioned in Albany for a long time," said State Senator Zellnor Myrie, a Brooklyn Democrat who is a member of the new cohort of progressives. "In the past there was no need for them to truly engage the way that I think would have been necessary this time around."

Lawmakers, government aides and lobbyists said in interviews on Wednesday that the industry had pinned its hopes on Mr. Cuomo, a Democrat who at times tried to act as a brake on his party's left wing. But in the last week of negotiations, Mr. Cuomo distanced himself from the debate. He dismissed requests from the real estate lobby to engage in negotiations with Democratic leaders of the Senate and Assembly, inviting the Legislature instead to pass bills on its own. When real estate lobbyists called the governor's office over the last week, they were told by the governor's aides that Mr. Cuomo had stepped back and that they should speak with legislators instead.

The real estate industry appears ready to launch a counteroffensive almost immediately, "The industry is prepared to file a lawsuit as early as Monday challenging provisions of the legislation, if it were to pass," an industry representative confirmed.

[The New York Times](http://www.nytimes.com)

2. Vax On, Vax Off

Our Spin:

The end of session always seems to wind people up. Anyone watching the protests from the Assembly gallery on Thursday afternoon as a vote went to the floor to end the religious exemption for school vaccine requirements would know as much. The measure narrowly passed the Assembly and as soon as it did, middle fingers were flying and threats were being made.

The Story:

New York Gov. Andrew Cuomo signed a bill Thursday ending vaccination exemptions based on religious beliefs, the latest attempt to address the growing measles outbreak, the worst the U.S. has experienced in decades. Cuomo said plugging the loophole should help contain the spike in measles cases in New York, the state the hardest hit by the uptick in the contagious virus due to low vaccination rates in ultra-Orthodox communities. "The science is crystal clear: Vaccines are safe, effective and the best way to keep our children safe," Cuomo said after signing the bill. "While I understand and respect freedom of religion, our first job is to protect the public health and by signing this measure into law, we will help prevent further transmissions and stop this outbreak right in its tracks."

The Democratic-controlled Legislature approved the measure, which also eliminates other nonmedical exemptions for schoolchildren across the state. "We are facing an unprecedented public health crisis," said Sen. Brad Hoylman, the legislation's sponsor. "The atrocious peddlers of junk science and fraudulent medicine who we know as anti-vaxxers have spent years sowing unwarranted doubt and fear, but it is time for legislators to confront them head-on." The exemption, which exists in some form in most states, allows parents of schoolchildren to cite their religious beliefs in opting their kids out of required vaccines. Supporters of keeping the religious exemptions say religious freedom should not be overpowered by state laws. After the final vote tally was announced in the Assembly, howling protesters, including the parents of unvaccinated children, filled the chamber, hurling expletives and chanting "shame on you," until lawmakers moved to recess.

The New York Assembly narrowly passed the bill by a 77-53 vote. It needed 76 votes for passage. Lawmakers in the state Senate advanced the measure by a tally of 36-26. In New York, about 96% of students have been immunized against measles, mumps and rubella, yet "a measles outbreak continues to affect communities in several parts of the state where the rate is lower," according to state health officials. In the 2017-2018 school year, 26,217 students in New York, including those in public and private schools and children in day care and prekindergarten, had religious exemptions from vaccinations, officials said.

"Although the state can claim high immunization rates overall, preventable diseases like measles remain a public health threat when administrative loopholes allow children to go unvaccinated, carrying the potential to harm communities — and especially our most vulnerable residents," said Dr. Howard Zucker, the commissioner of the state Department of Health.

The law eliminating religious exemptions takes effect immediately. Unvaccinated students will have up to 30 days to show school officials they have received their first dose of each required immunization.

[NPR](#)

3. A Sprint to Court

Our Spin:

On the eve of Federal approval of the proposed T-Mobile merger with Sprint, a group of Attorney General's led by New York AG Letitia James went to Court to block the merger. The arranged marriage of the two telecom giants would reduce vital competition, quality and innovation on top of increasing prices for consumers according to the state's top attorney. The showdown between Federal and State regulators is bound to delay any resolution of the proposed merger. It may be easy to sprint to court, but when you get there it's definitely a marathon!

The Story:

New York State Attorney General Letitia James is leading a group of states in challenging T-Mobile's controversial merger with Sprint — an unusual legal salvo that throws the \$26 billion deal into doubt. James — joined on Tuesday by her counterparts in eight other states and the District of Columbia — sued to block the megamerger between the wireless carriers, arguing that a deal would mean higher prices for consumers. "When it comes to corporate power, bigger isn't always better," James told reporters gathered at her Manhattan offices.

A merger of the nation's No. 3 and No. 4 telecom giants would mean "diminished competition, higher prices, and reduced quality and innovation," according to the complaint filed in New York federal court by attorneys general from states including New York, California and Connecticut. James said negotiations with the Justice Department, Sprint and T-Mobile are "ongoing" but that the deal as it stands — which would cut the number of nationwide wireless carriers from four to three — "violates antitrust laws."

The DOJ has yet to complete its review of the merger. As reported by The Post, the DOJ last month was notified about the Federal Trade Commission's surprise endorsement of the merger — a sign that the DOJ is poised to approve it. "The states' action suggests they saw the writing on the wall and wanted to get ahead of it," a former DOJ official said, indicating that James must have believed the DOJ was about to approve the merger. Now, the state AGs may have handcuffed the DOJ, as it will be very hard to approve a merger while a lawsuit is pending against it, the former DOJ official said.

"It's a well-written complaint," a lawyer requesting anonymity who is reviewing the situation for a hedge fund said. "The AGs will likely be granted a temporary restraining order stopping the merger." James did not consult with the DOJ, which is reviewing the merger before filing the suit, two sources with direct knowledge of the situation said. "I don't believe that we have an obligation to provide the DOJ with notice," she said when asked Tuesday whether the DOJ had received a heads-up from the state AGs. "We're going to continue with our litigation. Whether or not the DOJ approves this merger or not we have a responsibility to move forward and protect consumers," James said.

[New York Post](#)

