

Implementing Growth Management

The Community Preservation Act

*Elisabeth M. Hamin, Margaret Ounsworth Steere,
& Wendy Sweetser*

At the state level, growth management is typically defined as states developing a set of overarching goals and then mandating or encouraging local planning policies to achieve those, as in the exemplary cases of Maryland and Oregon (Bollens 1992; Weitz 1999; Innes 1993). Smart growth has typically been seen as a more design-oriented and business-friendly successor to growth management, a term that developed some highly restrictive connotations. While many of the goals of smart growth/growth management are achieved through regulatory reform, other goals, and particularly the most local of goals, typically require funding to be achieved—examples include protecting open space, whether through outright purchase or through purchase of conservation easements, and the provision of low- or moderate-income housing.

While there has been significant movement over the years among some states to undertake top-down legislative initiatives on this growth management/smart growth topic, state-level engagement in local planning is highly controversial and potentially unlikely in many other states. Massachusetts is one such state, where legislating state-level mandates has not even been attempted, arguably due to the Commonwealth culture of strong localism. Instead, in 2000 the Massachusetts state government passed legislation, the Community Preservation Act (CPA), that enabled towns and cities to tax themselves and receive state matching funds to achieve a limited set of objectives often connected with smart growth, namely, open space protection; provision of affordable housing; and historic preservation of buildings, landscapes, sculptures, and collections, among other things. The focus of the CPA is on empowering communities to implement smart growth goals rather than smart growth planning itself. It is particularly important to understand this act because it is serving as a model for other states—New York's Governor Pataki has proposed a Community Preservation Act that focuses solely on parks and open space (New York State Department of Environmental Conservation 2005), while the state of Maine has initiated an advisory council under the rubric of Community Preservation (Maine State Planning Office 2005).

One of the critical political challenges to state-level reform is the disparity in interests, values, and resources between rural and urban communities. We hypothesize that a key reason the CPA was enacted is that by design it achieves a high degree of

Abstract

State-led growth management has been criticized as inflexible in addressing the range of situations that communities face. A second issue is that while many of the goals of smart growth can be achieved through regulation, others require funding for implementation. In 2000, the Commonwealth of Massachusetts passed legislation called the Community Preservation Act (CPA), an experiment in enabling communities to tax themselves to implement growth management/smart growth actions at the local level. This article examines that act as to whether it demonstrates flexibility in its application across communities in the state, analyzed according to sub/urban to rural character. The act is found to appeal to a wide range of communities for overlapping but also divergent reasons and provides a flexible method to aid communities in implementing a limited set of smart growth goals.

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Elisabeth M. Hamin is an assistant professor of regional planning in the Landscape Architecture and Regional Planning Department at the University of Massachusetts–Amherst.

Margaret Ounsworth Steere is an associate at Bonz and Company, Inc., a real estate advisory firm in Boston. She holds a master's of regional planning degree from the University of Massachusetts–Amherst.

Wendy Sweetser is the director of the Highland Communities Initiative, a program of the Trustees of Reservations. She holds a master's in regional planning from the University of Massachusetts, Amherst.

flexibility in local implementation and thus is more politically acceptable than other, more regulatorily based reforms. To test this, our research question was, Do communities that voted on the CPA demonstrate differences in how they argued for and against and then implement this policy? If so, the implication appears to be that flexibility is a key policy quality. If not, the implication seems to be that a grassroots approach to growth management serves different purposes than flexibility. Given this, what policy lessons can be drawn? For the research, we chose a mixed-method approach (Creswell 2003), using descriptive statistics to evaluate the sociospatial ballot and implementation outcomes, and interviewing a sample of activists in case study towns to answer the qualitative aspects of the questions. We differentiated among communities based on their urban/suburban versus rural character, for reasons that are explained below.¹

In this article, we first present the background on the CPA, review the literature on the politics of smart growth particularly in rural versus more urban communities, then present our quantitative and qualitative findings regarding the CPA, and conclude with a summary and lessons for other states that may be interested in a similar policy.

►The Massachusetts Community Preservation Act (CPA)

Massachusetts has a strong tradition of local control and home rule, making the passage of strong state-level growth management legislation unlikely.² Still, and despite a fairly stable population level (total 5.5 percent increase 1990 to 2000), the state has growth problems. New home prices in Massachusetts were 48 percent higher than the national average in 2000 (Moscovitch 2001); in 2002, Boston had the third highest housing prices in the nation, with a \$395,900 median while the national median was \$158,300 (Flint 2003). By 2005, the situation had further deteriorated, with Boston rated the most expensive metropolitan area in the United States (Greenberger 2005). The causes of this are complex, but a key reason is the constricted supply of moderately priced homes resulting from the local zoning and community process that allows local activists to block major developments, particularly multifamily, often citing the resultant higher cost of municipal services and school capacity as reasons (Flint 2003). This pattern has pushed new housing starts farther and farther outside the metropolitan areas, so that “more than twice as much land in Massachusetts has been developed in the last 50 years than in the previous 300 years combined” (Trustees of Reservations 2003).

To address these issues in a politically realistic way, former secretary of the Executive Office of Environmental Affairs Bob Durand and colleagues designed the CPA. The CPA enables each city and town to raise property taxes to undertake projects designed to achieve open space protection, affordable

housing, and historic preservation. The tax amount is calculated as a surcharge and can go up to a maximum of 3 percent of a property’s current taxes. Each municipality must approve the CPA through ballot referendum, and each community can decide the percentage rate of the surcharge and whether to exempt any or all of the following: the first \$100,000 of each property, low-income households and senior citizens, and/or commercial and industrial parcels. The money raised within the city or town is matched by the state from a trust fund whose income source is an increase in fees paid on property transactions at the Registry of Deeds. Although the fund should be protected from being reallocated for general revenue purposes, the potential for its being usurped to address other state needs was a significant concern among the local residents.

The roots of the CPA go back to the early 1980s, when the wealthy islands of Martha’s Vineyard and Nantucket off the coast of Cape Cod got state legislation passed that enabled them to establish local and, later, Cape-wide land banks for purchasing open space, funded through local real estate transfer taxes (Jack Clark, Massachusetts Audubon Society, telephone interview, March 7, 2002). In 1988, freshman legislator Representative Robert (Bob) Durand sought a source for funding to increase preserved open space across the state. Seeing the success of the local land banks, he designed legislation to enable a statewide land bank to help communities more easily acquire open space, funded through property transfer taxes. He first introduced this in 1988 as the Community Preservation Act (Geigis, Silka, and Hamin forthcoming). Lacking political support, the bill languished in the House and the Senate. By the mid-1990s, Durand, now a state senator, sought a stronger, broader constituency for the bill and put forward a comprehensive bill allowing cities and towns to levy a local property transfer fee on the sale of property and use 50 percent of the revenue for open space protection and 50 percent for the creation of affordable housing. This bill was set to pass the legislature, but a last-minute campaign by the real estate industry defeated it. The goals of the bill were not the problem; instead, real estate lobbyists were adamant that surcharges on property transfers were absolutely unacceptable, and developed mass media campaigns to put the point to the public (interview with Marcia Molay, former director of the Community Preservation Coalition, March 25, 2002).

In the late 1990s, Durand brought a third lobby to the table—historic preservation. Durand, now secretary of the Executive Office of the Environmental Affairs, encouraged negotiation among groups that had often been adversaries, and a general consensus of support developed among the three interest groups—land protection, affordable housing, and historic preservation—as they realized that the chances of getting any funding bill significantly increased with a broader coalition of support (Molay, interview).

To mollify the real estate lobby, the CPA advocates eventually agreed to accept property tax surcharges as the source for local funds. In return, however, the state had to provide an incentive for communities to adopt the CPA. For this, the real estate lobby conceded to allow an additional fee to be

collected at the Registry of Deeds on property title transfers, thus providing a source for state matching funds (Molay, interview). After sixteen years of negotiation, the CPA was signed into law on September 13, 2000.

Each municipality that wants to have a local CPA must vote on it by public ballot. The impetus for a CPA vote must come from a citizens committee, not from city or town staff or currently elected members, and that committee determines the specifics of the local act, including the surcharge (between 1 and 3 percent) and any exclusions (often the first \$100,000 of home value and/or elderly and low-income families). If the act is adopted by a city or town, members of the planning board, the conservation commission, the housing authority, and at-large community members form a Community Preservation Committee. This committee is charged with studying the community's needs and deciding how the money is to be spent, though the final project decisions must be approved by the local legislative body. Following the three target areas for the act, 10 percent of the community preservation fund must go to each of the three elements—historic preservation, affordable housing, and open space—and the remaining money can be spent on any component or combination of them. Investments in recreation are also allowed, and very limited funds can be spent on administration. Once the CPA has been adopted, the town must stay in the program for five years but is able to amend the act to reduce or raise the tax percentage, and could conceivably lower it to a number approaching 0 (Massachusetts Senate and House of Representatives 2000).

Following its initial passage, the Governor Celluci/Swift administration through the efforts of Secretary Durand placed the CPA within a broader smart growth agenda called the Community Preservation Initiative (CPI). The larger CPI included a GIS-based Build Out Analysis for each town, funding to communities to draft comprehensive plans, and a training institute for community leaders (Hamin, Silka, and Geigis forthcoming; Swift and Durand 2001).

The new gubernatorial administration under Mitt Romney has continued to advocate for the goals of CPI through further developing the Urban River Vision's program, Transit-Oriented Development, passing the Smart Growth Zoning and Housing Production Act (Chapter 40R), and the Commonwealth Capital Fund, which aims to provide grant funding to implement community development plans created under the CPI. Municipalities are still passing local CPAs, and the trust funding continues unchanged as of late 2005. The focus for this article will be the CPA.

► Match to Smart Growth

Smart growth can be understood as the most recent evolution of growth management, with broader objectives and better links to urban design than implied in the more regulatory-based term growth management. While there is no

strong consensus about exactly what smart growth means, the American Planning Association (APA 2002b) has defined it as follows:

- Using comprehensive planning to guide, design, develop, revitalize and build communities for all that have a unique sense of community and place;
- preserve and enhance valuable natural and cultural resources;
- equitably distribute the costs and benefits of development;
- expand the range of transportation, employment, and housing choices in a fiscally responsible manner;
- value long-range, regional considerations of sustainability over short-term incremental geographically isolated actions; and
- promote public health and healthy communities.

While the focus of the APA's list remains largely on regulation, as evident from the first sentence of the list, we argue that achieving many of these goals instead requires a focus on implementation (preferably predicated on good municipal planning). In other words, they often require money. Preserving open space often requires local funding, as does providing low-income housing or preserving cultural resources. Thus, finding funding for smart growth goals, as the CPA does, is not an insignificant contribution to smart growth achievement.

However, because of its very limited nature, the CPA both is and is not planning or growth management/smart growth. Certainly, Secretary Durand and his staff considered the bill to be growth management. Describing the broad CPI, of which the CPA is a key part, the official state Web site begins by saying, "Massachusetts has taken an innovative approach to growth management, creating a grassroots, municipally-driven smart growth initiative called Community Preservation" (<http://compres.env.state.ma.us/>). The CPA's structure matches to the APA's guidelines as follows:

- have a unique sense of community and place;
- preserve and enhance valuable natural and cultural resources;
- expand the range of transportation, employment, and housing choices in a fiscally responsible manner; and
- promote public health and healthy communities (APA 2002b).³

The CPA adds one element that arguably should be on the list, but is not. It has an explicit policy goal of requiring collaboration among the typically separate factions of support for different elements of good land use planning. Thus, the policy is designed to overcome the typical division between those who support affordable housing and those who support open space, and historic preservation is set on par with the other two goals.

The CPA does not clearly address these smart growth criteria, however:

- using comprehensive planning to guide, design, develop, revitalize and build communities for all;
- equitably distribute the costs and benefits of development; and

- value long-range, regional considerations of sustainability over short-term incremental geographically isolated actions (APA 2002b).

Each of these is significant and is further discussed in the article's conclusion. Of particular interest here is that the act does not require communities to tie their CPA decision making to their comprehensive plans; nor is there any reference to planning *per se* in this legislation. CPA money specifically cannot be used for creating comprehensive plans, so the key link to comprehensive planning made in the first sentence of the APA policy guide is missing. However, an interesting part of the CPA results from its lack of connection to planning *per se*. The CPA was designed to help communities fund the initiatives so often written into plans without means for implementation. To the extent that planning is a process that directly contributes to local community quality of life through providing for public goods not otherwise normally obtainable through the private market, this is planning in its most active sense. Unlike most state-level smart growth or growth management legislation, the focus on the CPA is on implementation through local funding.

► The Politics of Smart Growth

In 1999, the APA argued that there are three categories of reforms, in order of increasing ambition: basic recodification and tightening of existing land use laws and regulatory procedures, which corrects deficits in existing legislation without changing its underlying character; authorization for innovative and flexible land use controls, which are designed to address a limited spectrum of growth management goals; and significant overhauls in the framework of land use regulation, designed to fundamentally change planning processes (American Planning Association's Growing Smart Project 1999). The Massachusetts initiative is similar to the second category, in that the CPA addresses a limited spectrum of growth management goals and does not address the basic structure of planning in the state. In its explicit goal of empowering local governments, it represents something quite different from the more famous examples of statewide growth management, often highlighted by Oregon. In its focus on funding, it falls more into a long history of state matching-fund programs, but retooled and revised to directly address smart growth goals.

The sorts of reforms that states were investigating in 2002 tended not to be large-scale, significant change to state-led growth management. Instead, they were often in the modest category of regulatory updating and provision of limited programs (APA 2002a; Salkin 1999), with the vast majority of land use regulation balloting for local growth management (Myers and Puentes 2001). This may (or may not) be connected to recent research, which is providing at

best mixed support for the hypothesis that state-led growth management makes a significant difference in reducing sprawling land use.

In 1999, Nelson evaluated key indicators for "sprawl, preserving farmland, improving accessibility, making transit more a viable option, reducing energy needs, and minimizing tax burdens" (p. 123) in growth management states (Florida, Oregon) as compared to what he calls a non-growth-management state (Georgia). Based on these indicators, he finds that the growth management states did better. Kline (2000), however, in a statistical examination of the sprawl and farmland preservation questions, found Nelson's two growth management states to be far from the best in the country in these indicators, raising a concern about the explanatory power of growth management versus nonregulatory conditions in achieving such outcomes. This is supported by Fulton et al. (2001), who found that the states that are actually increasing in population density do not match to growth management states. Similarly, Anthony (2004) found that state-led growth management programs did not have a statistically significant effect in checking sprawl. These findings do not negate other key advantages of state-level growth management, such as encouraging good planning, regional coordination, and better matching state infrastructure investments to land use goals. However, as Anthony (2004) observes, even with state-led growth management, most actions to achieve goals must occur at the local level, and it is at this level that the problems seem to reside. Thus, while there continues to be a role for traditional state-mandated growth management, openness to alternative approaches seems in order.

A preference by states for a grassroots approach over the more strongly state-led initiatives should, we hypothesize, address one or more of three goals or preferences: political feasibility/match to state culture, overall effectiveness, and/or a response to the difficulty of state-led approaches to effectively address the variability of local needs (flexibility). For the CPA legislation, the political feasibility argument is self-evident: this legislation passed while consideration of significant state-led planning has not even been legislatively broached, although the Legislature is currently considering significant revisions to the Commonwealth's land use codes.⁴ The effectiveness argument is very difficult to prove for this policy at this point in time, as visible changes in land use as a result of CPA investments may not be evident for some years. The flexibility question, however, is ripe for exploration.

A key argument against state-led growth management legislation is that it is very difficult to fashion such legislation in ways that meet the needs of growing urban and suburban cities and towns as compared to stable or declining, often rural or inner-ring suburb and central city areas (Orfield 1997; Abbott 1994). Because these interests may not only be different, but in direct competition, designing legislation that meets this variety of needs effectively is quite difficult and

Table 1.
Comparative smart growth program elements, Massachusetts and Georgia.

<i>Program Element</i>	<i>Georgia</i>	<i>Massachusetts</i>
Regional planning	Required	No (a few limited projects undertaken)
Local planning	Incentives, some loss of grant opportunities	Incentives, some loss of grant opportunities
Critical resource identification	Required	Technical assistance
Development of regional impact reviews	Required	No
Funding for implementation of plans	Authority to adopt local impact fees for municipalities with qualified plans	Yes—local vote/state match; (Community Preservation Act); Commonwealth Capital Fund

Note: Information on Georgia’s growth management legislation is taken from Weitz (1999, 99-106).

politically charged (Hamin 2003). This reality led Abbott (1994) to argue that in the absence of pressing state interests, local governments should have the flexibility to choose from a variety of ways to meet state goals. Similarly, Anthony (2004) lauds the Georgia state growth management program for its flexible application and suggests that its flexibility may be a reason that communities have been much quicker to comply with the guidelines than in more mandated state policies. The case is far from clear, however. Weitz (1999) argues that while the incentive-based approach that Georgia has taken has increased its acceptance among municipalities, the flexibility of the program and its lack of requirements for municipalities to implement comprehensive plans makes this act “destined to have only marginal effects on land development patterns” (p. 298). It may be helpful to place Massachusetts’ overall CPI in context of Georgia’s somewhat more widely known program, as summarized in Table 1.⁵

► **Rural versus Sub/Urban Planning**

The calls for flexibility in growth management legislation often reside in recognition that life in rural and urban areas is quite different, and the needs of these types of communities can vary widely. Typically, the expectation is that rural areas will be less supportive of state-led growth management for several reasons. In rural areas, land is a “fundamental institution” that serves as a repository for wealth and inheritance privileges, a means of measuring social standing, and as the natural resource that supports the rural lifestyle (Sargent 1976). As such, rural residents often resent any restrictions on their land, especially constraints dictated by state or even local governments (Pendall, Wolanski, and McGovern 2002). Popper (1981) found that a key reason is that rural areas tend to be economically poorer, and rural growth management opposition is based on beliefs that growth management will interfere with locally needed economic development.

Connected to this attribute is a deep skepticism of the role of government on the part of many rural residents, which

increases in intensity as the government gets more removed from the town itself (Lapping, Daniels, and Keller 1989). In accordance with this observation, a survey of rural America found that rural residents ranked the federal government and the media at the bottom of possible problem-solvers that impact local issues (Pew Partnership 2002). Research indicates that rural towns’ traditional land use controls may come more from informal controls with more emphasis on tradition and cooperation than on strict regulations (Sargent et al. 1991), and the idea that local governments should take an active role in limiting levels of change is generally considered urban in its origin (Dubbink 1984).⁶

In designing policies, state governments are frequently more oriented toward urban areas and urban voters than rural voters and have often worked at cross-purposes to local rural planning. Government directives that require municipalities to take certain actions, such as the production and implementation of complicated plans, often require expertise and/or resources to conduct in-depth assessments and studies to which rural governments do not have access (DeGrove and Metzger 1993). Overly complex plans that require significant funding and paperwork can hinder the sense of independence and self-reliance that is a fixture of rural towns (Lapping, Barnes, and Lecko 1980). Whether cause or effect, rural governments can be reluctant to implement policies designed by and for urbanized populations (Seroka 1997). Because the literature supports the argument that rural and sub/urban needs in growth management are significantly different, we chose this question for investigation, and split our data along rural and sub/urban lines.

The literature thus suggests that rural opposition to growth management should increase as the legislation is viewed as moving power away from the locality, interfering with economic development, requiring complex administration, and being implemented through local land use regulation rather than building on a culture of cooperation and tradition. By virtue of its community-based structure, the CPA on its face can address the differing needs of differing communities. The question is whether the Commonwealth’s communities

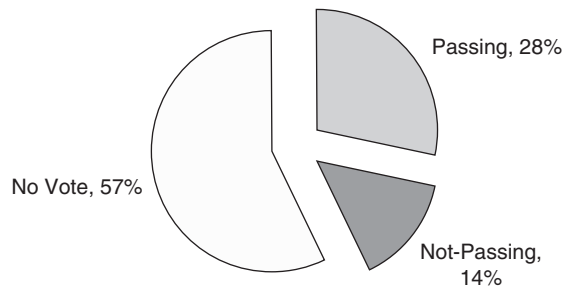


Figure 1 Massachusetts municipalities voting on a local Community Preservation Act, 2001-2004.

Note: N = 351. “No vote” means it either was never considered or did not receive enough public signatures to be placed on the municipal ballot for a vote.

actually displayed differing needs and arguments in their voting and implementation of the act.

► Balloting Outcomes

As of June 2005, 142 (40 percent) of Massachusetts’s 351 municipalities had brought a CPA ballot to vote (see Figure 1). All of the state is incorporated into municipalities, and thus the CPA was available to the whole state. One hundred municipalities out of the 142 have passed the CPA, suggesting an overall pass rate of 69 percent. Only one of the state’s traditional center cities voted (Boston, in 2001) and voters declined the act there, but a number of the cities, such as Cambridge, that voted are inner-ring suburbs rather than expanding exurban areas. The sub/urban category includes inner-ring suburbs with high density, significant ethnic diversity, and lower than average incomes—cities that are more commonly thought of as urban than suburban—as well as cities further removed from metropolitan areas with higher incomes and less diversity. In terms of voting, rural versus sub/urban towns showed very little difference; of those who brought the CPA to a vote, 72 communities were sub/urban while 69 were rural, and their pass rates are close to identical (The Trust for Public Land 2003). In general, those towns that passed the act represented a wide spectrum of sociospatial indicators and included towns in all regions of the state. An example is the rate of population change 1990 to 2000, which varied from a loss of 51 percent in Harvard to a gain of 71 percent in Aquinnah. Per capita equalized assessed value shows an even wider spread, from an astonishing \$2,901,815 per person in Chilmark, located on Martha’s Vineyard, to a very modest \$47,698 in Amherst, home of the University of Massachusetts.

Within this diversity, some trends are evident, as shown in Table 2. The clearest finding is that cities and towns

experiencing faster than state average population growth tended to bring the CPA to a local vote and then pass it. Density, on the other hand, was a weaker predictor, with some likelihood that a denser community would actually fail an act. Second, wealthier cities and towns were more likely to vote, and were more likely to pass an act. Cities and towns with a higher per square foot tax bill at the time of their vote were more likely to say yes to more taxes once a CPA was on the ballot but were not necessarily more likely to bring the act to vote.

While towns scattered throughout the Commonwealth voted on and passed the act, a preponderance of voting and passing towns are located near the I-495 beltway that encircles metropolitan Boston and is generally the outer boundary (and conduit) of suburbanization pressures for the metro area. In addition, most of the towns on Cape Cod, which have been undergoing significant development pressure and were the catalyst for developing the CPA, have passed the act (see Figure 2).

The picture that emerges of municipalities willing to tax themselves for CPA public goods is of those that were outside of the center cities and were richer, bigger, denser, and had experienced more population growth and resulting development than towns that either did not vote or failed the bill. This raises a significant equity question, as people in all towns pay into the state matching fund through the deed recording fees, while it appears that richer suburban and rural communities are likely to be the ones able to access those matching funds. This is a point to which we return in our conclusions.

► Uses of the Money

The first local adoptions of the bill were in 2001. By fiscal year 2004, a total of about \$72 million of the local and state match CPA monies had been appropriated for projects (see Figures 3 and 4).⁷ Open space has received the largest share with \$28.5 million, although affordable housing is close at \$27.6 million. This is particularly surprising given that during local CPA debates, discussion of funding affordable housing through the CPA was highly contentious and was often used by opponents as a reason not to pass the ballot—a point we return to below. Historic preservation has projects approved for \$13 million, while recreation gets \$3 million. Amounts raised and matched varied enormously. In 2002, tiny Hampden (pop. 5,171) raised not quite \$30,000 while Cambridge (pop. 101,375) raised more than \$5 million, and both received a 100 percent match for these amounts. Rural and sub/urban municipalities, as expected, spent their money somewhat differently. Overall, sub/urban cities generated much more money, \$61 million compared to \$11 million for rural towns. Sub/urban cities spent more on affordable housing (\$24.8 million, or 40.6 percent), while rural towns spent more of their money on open space preservation (\$5.3 million, or 48 percent).

Table 2.
Voting breakdowns among Massachusetts communities.

	Population 2000	1990-2000 Population Change	Per Capita Income 1999	2004 EQV/ Capita ^a	Population Density (Population/ Square Mile)	Tax Rate at Community Preservation Act CPA Vote	Average SF Tax Bill at (CPA) Vote ^b
Median for passed towns	12,417	12.3%	\$28,639	\$161,230	575	12.66	3,342
Median for failed towns	11,780	5.6%	\$26,331	\$120,642	628	13.77	2,814
Overall state	9,707	5.5%	\$24,945	\$114,869	502	12.46	3,299
Median for CPA voting sub/urban towns	20,356	6.7%	\$26,924	\$139,403	1,018	13.32	3,046
Median sub/urban passed	20,145	10.5%	\$27,971	\$151,011	860	13.56	3,356
Median sub/urban failed	23,708	5.1%	\$25,974	\$114,730	1,955	13.27	2,775
State sub/urban	23,586	7.70%	\$25,575	\$123,423	1,309	12.10	3,551
Median for CPA voting rural towns	6,038	11.8%	\$27,693	\$163,002	355	12.85	3,166
Median rural passed	5,902	13.3%	\$28,846	\$185,764	350	11.90	3,300
Median rural failed	6,241	9.6%	\$26,475	\$124,234	359	14.41	2,844
State rural	4,440	10.40%	\$24,555	\$107,953	206	12.80	3,066

Source: U.S. Census Bureau and Commonwealth of Massachusetts Municipal Data Bank as of 2005 (see Commonwealth of Massachusetts Department of Revenue Municipal Data Bank, Equalized Valuation datasheet 1970-2004, <http://www.dls.state.ma.us/mdm.htm>).

Note: The average single family tax bill data were not available for eleven communities.

a. Equalized valuations (EQVs) present an estimate of fair cash value of all taxable property in each city and town and is a measure of the relative property wealth in each municipality.

b. The average property tax divided by average square feet of homes at the time of the community's vote on a local CPA.



Figure 2. Community Preservation Act geographical status by municipalities.

Source: Trust for Public Lands, available at http://www.tpl.org/tier3_cdil.cfm?content_item_id=14675&folder_id=1045.

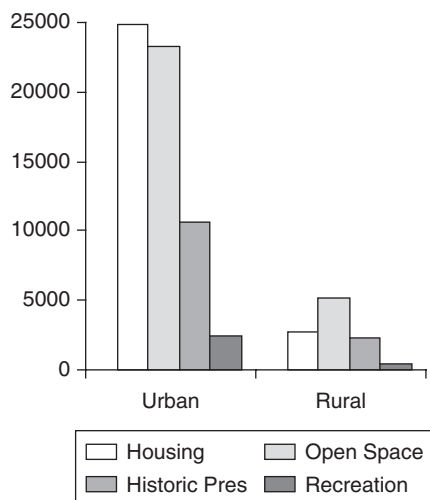


Figure 3. Expenditure by category for urban/suburban and rural municipalities, fiscal years 2000 to 2004.

Source: Recategorized based on Trust for Public Lands information, available at http://www.tpl.org/tier3_cdl.cfm?content_item_id=11075&folder_id=1045.

► Qualitative Research Method

While there were some overall trends, in general the balloting results appear to support the supposition that the act's design appeals to a diversity of municipal situations, suggesting support for the flexibility hypothesis. To further test it, we undertook interviews with six sub/urban and six rural towns which voted on the CPA and two randomly selected towns that did not vote on the CPA. For our stratified sample, we differentiated between sub/urban and rural communities based on population (rural = $n < 12,000$) and descriptive indicators assigned by the Massachusetts Department of Revenue,⁸ excluded the largest urban centers in the state from our sample,⁹ and selected the case study sites to generally match the geographic and socioeconomic spread of the state. Of note regarding the sample is that it is representative for most categories.¹⁰

Open-ended interviews were conducted in 2001 and 2002 over the telephone with forty-two CPA activists in fourteen towns, including those both for and against the CPA ballot question in their particular town.¹¹ Respondents were selected using the snowballing technique, usually beginning with the town planner or town manager. The main interview points included the following:

1. How did you learn about the CPA?
2. What were your initial and later reactions to it? Was this different from the wider community?
3. What did the campaign for the CPA consist of, and did any other organizations (state or regional) get involved?
4. What were the arguments for and against the CPA?
5. Is the CPA fulfilling a valid function?
6. Whom else do we need to talk with to understand the CPA situation in your town?

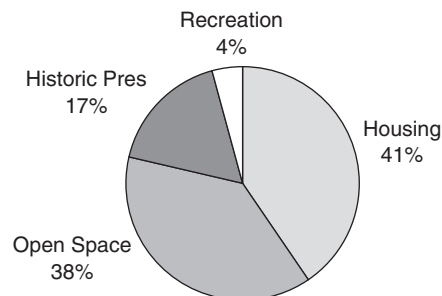


Figure 4. Expenditure by category for all Community Preservation Act municipalities, fiscal years 2000 to 2004.

Source: Recategorized based on Trust for Public Lands information, available at http://www.tpl.org/tier3_cdl.cfm?content_item_id=11075&folder_id=1045.

The interviews were taped and then transcribed, coded and categorized to facilitate analysis of emergent themes (Seidman 1991). In the interview quotations below, we indicate whether the speaker is from a rural or sub/urban town; the towns are given a letter code (A, B, etc.), and each speaker from each town has a distinctive number. Thus, Rural A1 means the first speaker from rural town A.

► Local Arguments for and against the CPA

The interview results suggest the reasons local volunteers and their voting communities supported passage of a CPA in their towns or cities. Four key arguments framed the support for the passage of an act, described below, along with details on how these arguments varied between rural and sub/urban communities.

Arguments for the CPA

The CPA was not planning, but instead was implementation. Both rural and sub/urban communities liked the fact that the CPA gave them actual money to do the projects that always seemed to fall off the priority list. Thus, the communities that passed the act tended to identify specific projects that needed to be funded and use images of those to persuade voters that they would see a real community benefit from this tax increase. Planning per se almost never spontaneously entered the conversation. When respondents were asked directly if the act was growth management, they often paused, had no clear response, or commented that it was only to the extent that land became preserved through the CPA and thus unavailable for building. A typical comment was,

Sub/urban D3: "I don't think it's enough money to be growth management. I mean, it could be, potentially a step in that direction but I would definitely not consider it that. I consider it really as some additional funding that is

decided upon by people other than, say, those who always make the decisions on tax dollars.”

An alternative and minority view was,

Sub/urban F2: “I do, absolutely. There was a very popular bumper sticker out there that said “Saving Land Lowers Taxes” and that was directed to the particular constituency . . . that really does focus on the tax side. The planning and open space people really did look at that, though, as a growth control factor. Absolutely.”

What is interesting in this quote is the equivalence between growth management, usually considered to be directing growth to the best locations, and growth control, that is, limiting total development; because the CPA directs growth only weakly and does not limit total development, for most respondents it did not count as growth management.¹²

The CPA provided funding for open space. The primary argument used to publicize the CPA and persuade voters was its applicability to open space. Most rural and sub/urban communities used open space as the “front man” for the cause, even when the activists themselves were primarily interested in affordable housing:

Sub/urban B2: “So we [affordable housing advocates] sort of formed this coalition and started the process of doing research and asked out into the community to get support and we knew that our component, the affordable housing, was the least popular. . . . We knew we had to put the open space people out front and that’s what we attempted but in the end, to be proactive, we were the most aggressive, our component of it.”

Most sub/urban communities used a much more balanced approach to arguing for the CPA, including discussion of needed affordable housing projects as well as open space. In virtually all communities, historic preservation was the least important aspect of the CPA trioka.

The CPA fit with volunteer cultures in some communities. This particular point was not part of the public argument and instead is more our analysis of the outcome of the act in different communities. Activists have to decide to advocate for the CPA, form a committee, decide on the details of their particular version of the act, and then undertake and publicize a campaign, all entirely independent of the local government. Then, once the act has passed, a new largely citizen volunteer committee has to form to spend the money. Thus, the better organized socially the community is, the likelier it appears to be to pass an act. Given that rural communities are accustomed to managing much of their local government through volunteers and have generally been found to prefer voluntary organization over official action, this act aligned well with rural values and strengths. Additionally, these boards all had to consist of community activists for each of the three CPA areas—affordable housing, open space, and historic preservation. These sometimes conflicting goals have not historically been in agreement in all cases or all towns:

Sub/urban A3: “What was kind of fascinating to me is that the CPA brought together elements of the community that don’t normally converse with each other very much and that’s affordable housing and open space. They tend to be at logger heads because they’re fighting over the same parcels. I think that was kind of an interesting side part of the CPA movement that people could see that really what we’re talking about is appropriate land use in the community and sometimes you have to increase density and development in one area to preserve open space somewhere else. I think that was a good thing.”

The CPA provided a stable funding source to be used for state or private grant matches. Among activists, one key reason to support the CPA was that it could provide a stable funding source for matching funds for grant applications. This was noted by rural and sub/urban activists alike, although it was particularly important to rural activists, who often commented on their difficulties in generating matching funds for grants.

Arguments against the CPA

Conversely, the interview results suggest the reasons local volunteers and their voting communities opposed passage of a CPA in their towns or cities. Four key arguments framed the opposition to the passage of an act, described below, along with details on how these arguments varied between rural and sub/urban communities.

The CPA raises taxes and is a tax on property taxes. In towns both sub/urban and rural, the key argument against the CPA was not about economic growth impacts except in the most attenuated way. Instead, and not surprisingly, it was simply an argument against raising taxes. This was true in both more sub/urban and more rural settings, with little noticeable difference in the argument. The complexity of the formula did not help:

Sub/urban B1: “The way it works is it’s essentially a tax on a tax. And although mathematically that’s how it’s calculated, the effect of that is people saying not only are we paying a [property] tax but we’re paying a tax on our tax?”

This became a particular issue if the community was facing a vote for large new spending on new schools or other issues, and in fact in most cases this was a kiss of death in terms of passing a local act. Consistently, voting for schools and infrastructure was considered more central, more necessary than the issues supported by the CPA, and a CPA vote that coincided with a major infrastructure vote was much more likely not to pass.

Generally, government actions are to be distrusted, and the further from local it is the less trustworthy it is. Both sub/urban and rural interviewees mentioned a distrust of government as a reason to oppose the CPA. The sub/urban interviewees specifically noted distrust of the state government, while the rural interviewees talked about distrust of state government but also government in general, a more ideological position. Overall, even supporters of the CPA indicated some reservations

about trusting that the state would come through with the matching funds.

Rural A1: "I, like others, don't have a lot of faith in big government. I assume the state, if they have a chance to steal the \$26m [in matching funds], they will. I'm wondering where that money is going to go if they don't spend it, which department group is going to grab it for something else."

The reason for such skepticism comes through quite clearly in stories the respondents told of previous dealings with the state, in which promised monies disappeared. While the act was clearly structured to be grassroots oriented, it also lent itself to antigovernment arguments. Not only did residents have to trust that the state would come through and distribute the matching funds, they also had to have faith that their local community would do the right thing once the money came, because the allocation of funds was not part of the voting on the act. This issue was noted in towns all along the urban-rural spectrum.

The CPA would fund affordable housing, bringing in outsiders and negative fiscal impacts. In both rural and sub/urban areas, the inclusion of affordable housing in the required expenditure categories often created significant challenges for the organizers, although the reasons for this were slightly different. A primary opposition based on fear of other was clear in most of the communities interviewed, both rural and sub/urban.

Rural B3: "I think that there was some fear that somehow by implementing the CPA there would be affordable housing in town, which would be a bad thing. We tried to make it clear that there's a lot of people that would like to have their kids live in town and it's going to get harder and harder for people to do that. Just look around you at other towns that are experiencing these kinds of growth problems, building new schools, etc. It's going to get to the point where you can't afford your taxes. As it is now it's tough to make ends meet. But, it seemed like a certain percentage of the population thought of it as bringing in riff-raff as opposed to people who were working hard just to support their kids and pay the rent."

In sub/urban areas, for most interviewees this intertwined with negative fiscal impact of housing:

Sub/urban A2: "In this community it costs us almost \$9,000 per pupil for education, okay? So if one just looked at it straight money-wise, that's not the kind of tax you get on the house. So the tax that's coming in from one house for one child already puts sort of a negative flow into the town and, hey, God forbid there's 2 or 3 or 4 children, I mean it's that much more. I don't like to paint the picture that way, we're not that way, we don't hate kids, I mean we all have them. But those are the realities you have to look at."

It is a sad fact that in many sub/urban towns in Massachusetts, children have become a LULU (locally unwanted land use), although this research suggests this attitude is not widespread

in rural communities yet. The result is that in terms of generating public support, many open-space oriented respondents believed that having housing in the troika was bad policy design in the first place:

Sub/urban D2: "So, yeah, [affordable housing is] a valid function but if I had an opportunity to write that law I would never have stuck affordable housing issues in there."

The CPA would require more sophisticated management than the town could undertake. This particular argument was put forward in interviews in all rural towns and had two primary forms. First, in many communities the clerk or assessor who would have to administer the act told neighbors that it would be too hard for them to do, and this carried weight in towns where many people directly know the person who would have to do the work. A typical response was as follows:

Rural E1 (town clerk): "The main reason that I'm not in favor of it is that it creates an awful lot of paperwork for town hall, not just for me, though of course I'm going to have to collect that money. It's also going to have to be included on a tax bill and treated as an unpaid tax. If someone doesn't pay for it, a house could be foreclosed because of it, the same as an unpaid real estate tax."

Second, rural communities felt ill-suited to administering official affordable housing, and there was fear that passing the act would mean the community had to set up a specific Housing Commission or otherwise undertake activities that were much more complicated than their volunteers wanted to handle:

Rural D2: "The hardest piece, and I think this is true for all of the more rural communities, is the housing issue. It's all done by volunteers, there is no professional staff that is getting paid to put these projects together. And in the housing, we are not sophisticated enough, or people with the knowledge, of how to do loan programs. And we don't want to get into loan programs. So our strategy is to give grants for housing projects."

Neither of these administrative capacity issues was raised by sub/urban towns, which with much larger populations and paid staff are in a better position to undertake administrative changes and manage housing.

► Conclusions

Generally, sub/urban and rural communities agreed that raising taxes is bad, that state government could not be trusted, that it was good to have a stable funding source for matching funds for grant applications, and that they liked investing in public goods for the town in ways that the town itself got to decide. In both sub/urban and rural areas, towns with higher property values, higher tax bills, and higher

population change were more likely to feel strongly about the need for better funding for public goods and pass the bill than otherwise. Still, the cities and towns that passed the act represented a wide spectrum of indicators of wealth, density, and population growth, suggesting that the act's basic structure was not strongly biased in favor of towns of any particular type, other than somewhat higher wealth levels.

Rural communities expressed stronger ideological opposition to government in general, liked the volunteer management of the CPA, but worried that they would not have the administrative capacity to manage the billing or any affordable housing that might result. Sub/urban communities worried over the fiscal impact of more houses.

Both rural and sub/urban communities liked getting more open space, although it was more important to rural communities than to sub/urban towns, and both had fears about who would move into new affordable housing. Rural communities tend to spend a much larger percentage of their funds on open space, while in sub/urban towns the spending was more balanced. However, because much more money went to urban and suburban communities and those communities tended to spend more on affordable housing, affordable housing has been a big winner through this legislation.

Overall, the adoption process and the resulting implementation shows more similarities across the rural to urban spectrum than differences. Unfortunately, we are not in position to determine why that would be true. It may be that the conditions in this small state are such that while from the local position the rural areas look very different than the sub/urban areas, the nature of the challenges facing both types of areas are in fact quite similar—sprawl and skyrocketing housing prices are affecting areas both sub/urban and rural. We hypothesized that grassroots growth management should be preferred for one or more of three basic reasons: match to state culture/political feasibility, flexibility in meeting a variety of community needs, or effectiveness. We cannot at this time judge effectiveness, and results on flexibility are mixed. Thus, it appears that the primary motivation for this localized approach may have been simply political feasibility. It appears that further empirical and theoretical work on these questions is needed.

► Policy Lessons for Other States

The literature suggests that rural opposition to growth management policies should decrease as legislation is perceived as keeping power local, not interfering with economic development, being fairly simple to administer, and being implemented through volunteerism rather than through regulation. For states with strong rural representation in their Congresses (which arguably describes many states), attention to these characteristics in designing growth management may

make passage more feasible. The structure of the CPA met these criteria with one exception: it was perceived as complicated to administer and ran into opposition on that count in rural communities. The fact that the act generally fit with rural concerns certainly helps to explain why it passed at the state level and has been widely passed at the local level. Its overall structure, however, also probably means that the act is destined to only make small, incremental improvements in the built environment.

Still, the CPA stands in stark contrast to more traditional state-led approaches to growth management. The existence of state goals can only be inferred through the permitted expenditure categories—open space preservation, affordable housing, and historic rehabilitation. The act contains no mandates for planning for smart growth and instead is about generating revenues for the sorts of investments that can facilitate smart growth. It makes no efforts at encouraging consistency of those investments with the local plan. It is radically localist, making no reference to the extralocal impacts of municipal decisions, and having no structures for regional consultation much less collaboration. This lack of regional structure is a serious issue, as many have noted that a key reason for state-led growth management is to overcome the parochial tendencies of municipalities.

Cast in an alternative light, of course, this is the very flexibility that grassroots approaches imply—communities can quickly respond to opportunities and challenges as they come up, rather than waiting for regional cooperation or for a match to a plan that by definition was based on previous rather than current conditions. Local residents themselves rather than elected officials are empowered to undertake what they consider most pressing to preserve the character of their towns. Providing communities with ways to fund locally desired projects is no small contribution to overall civic good.

Equity issues result from the radically local quality of the CPA. The classic central cities of the state have not voted yes on an act and thus do not receive the benefit of the state matching funds, although their residents pay into the trust each time they transfer property. Similarly, while some poorer communities voted for a CPA, on average it is the richer communities that are benefiting from the bill. State funding that targets investment in traditional center cities would be an important balance to a CPA bill.

In general, the structure of the CPA, which required collaboration across housing, open space, and historic rehabilitation, can be judged a qualified success. Open space, as the least controversial item, led the public way and increased likelihood of local act passage, while once it came time for implementation, affordable housing had fairly equal billing. Most interestingly, it allowed for explicit confrontation of the inherent conflicts between reducing the supply of land available for development and the cost of housing, and this is certainly a benefit. Longitudinal study would be helpful to determine if these

coalitions and conversations have long-term outcomes beyond the confines of the Community Preservation Committees.

The rhetorical challenges of selling a “tax on property taxes” should not be overlooked, however, and some different structure might increase acceptability. Early discussions suggested that the act be financed by a tax on the recording of new subdivisions, and this bears consideration by other states. Also, if another state considers a similar policy, some regional structure to evaluate spending priorities would be highly desirable to overcome local parochialism.

An important point is that most states undertake growth management legislation and land use reform incrementally. While clearly not “the” answer, the CPA is a very politically feasible incremental step toward growth management, one that may be particularly appropriate in states where stronger, state-led legislation remains unlikely. As a method of funding smart growth initiatives, it may have a place even in states that have already passed strong state-led regulatory reforms. Overall, this policy provides a timely way for municipalities to achieve the implementation of some of the good planning goals that smart growth espouses.

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Notes

1. For our research, the sub/urban category includes inner ring suburbs with high density, significant ethnic diversity, and lower than average incomes—cities that are more commonly thought of as urban than suburban—as well as cities further removed from metropolitan areas with higher incomes and less diversity. In Massachusetts, most rural communities are legally towns, while most urban communities are legally cities, but we occasionally use the terms “town” and “city” interchangeably.

2. In contradiction to this, Richardson, Gough, and Puentes (2003) argues that states’ legal structures of local autonomy embodied in home rule and Dillon’s rule has little to do with the likelihood of passage of state-led growth management. Still, the argument about the primary cultural value of localism in the Massachusetts Commonwealth is the typical argument put forward regarding why little land use reform has to date passed the legislature.

3. We find that the Community Preservation Act (CPA) promotes public health and healthy communities because it includes the ability to fund recreation directly, and many of the open spaces that towns chose to preserve using CPA funds include the ability for residents to hike and walk on trails through the lands.

4. See the Web site for the Zoning Reform Working Group at <http://www.masmunilaw.org/zoning.htm>. These revisions significantly improve local planning but do not change the state-local roles.

5. Maryland’s noted program is also sometimes referred to as incentive-based or grassroots; it requires county and local planning and mandates specific elements for plans, in return for which more state funding is available in designated growth areas (American Planning Association’s Growing Smart Project 1999).

Because it is so much broader than the Massachusetts effort, comparison are not as applicable.

6. The prevalence of informal land controls in rural U.S. echoes of the common form of land management that is in effect in many parts of the world, where given a stable population with shared values, nonlegislative control mechanisms can be quite effective (The Ecologist 1996; Ostrom 1991).

7. The state estimates that the registry fees will generate about \$26 million per year. The act requires that the Commonwealth pay out 80 percent of the total in the trust fund each year, up to a 100 percent match for all participating towns. If there is not sufficient money in the trust fund for a 100 percent match, the state divides the money so that all towns receive the same percentage match, and then the remaining 20 percent in the trust fund is used for a second round of funding based on a complex formula that favors communities with smaller populations or lower economic tax bases. However, only towns implementing the CPA at the full 3 percent surcharge are eligible for the second round match; all towns regardless of their percentage surcharge are eligible for the first round match. Towns become eligible for the match once they have collected the surcharge on property tax bills, usually a year after local passage of the bill (see <http://www.communitypreservation.com/CPAMatchingfunds.htm>).

8. The indicator used is the Kind of Community (KOC) Codes, which are descriptive numbers assigned to each community in the Commonwealth based on fifteen criteria, including population, income, property values, percentage of commercial property, demographics, and percentage population change, among others (Massachusetts Department of Education 1985). For the suburban sample, those towns with the code of “Economically Developed Suburb” or “Resort, Retirement, and Artistic” were chosen. For rural towns, we selected those codes as “Rural Economic Centers” and “Small Rural Communities.”

9. Specifically, Boston, Lowell, and Worcester.

10. The average population of all urban towns that failed the CPA is much higher than our sample; this is because Boston, with its huge population base, voted on the CPA and failed to pass it, but was not included in our sample. Second, the average equalized property value for rural towns that passed the CPA is much higher than our sample. The averages are skewed by extremely wealthy beachfront communities off Cape Cod such as Aquinnah, Chilmark, and Nantucket, which have astronomical Equalized Valuations (\$1,427,953, \$2,901,815, and \$1,340,953, respectively) but are considered rural because of their low populations (see Commonwealth of Massachusetts Department of Revenue Municipal Data Bank, Equalized Valuation datasheet 1970-2004, <http://www.dls.state.ma.us/mdm.htm>). None of these towns were included in our sample (see Figure 2), so our property values and population densities in the sample are less skewed. Similarly, the population density of our rural sample is much lighter than that of the state average or the CPA voting towns, because we selected for more rural towns.

11. The first round of interviews was with rural towns, and was written up in Sweetser (2002).

12. In hindsight, it would have perhaps been more illuminating to ask respondents if the CPA was part of “smart growth” instead of “growth management,” but it did not occur to us at the time that these terms might carry such a different valence for the public.

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