



Testimony in Support of H. 1271 and H. 1266 before the Joint Committee on Housing

May 31, 2011

Submitted By:

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Dear Chairman Eldridge, Chairman Honan, and Members of the Committee:

We would like to offer our support for H. 1271, *An Act Relative to Promoting Local Housing Initiatives for Economically Diverse Households* filed by Representative Carl Sciortino, and H. 1266, *An Act Relative to Zoning Density* filed by Representative Michael Kane.

Promoting a strong Massachusetts economy and a healthy quality of life requires a healthy range of housing options for residents. Unfortunately, the Commonwealth's local land use laws aren't producing the results Massachusetts residents need.

When it comes to affordable housing, we have a supply and demand problem. New housing construction has remained inadequately low since the 1980s. In the last decade, the Commonwealth had the 4<sup>th</sup> lowest rate of housing construction in the nation<sup>1</sup>. Using what economists consider a healthy vacancy rate as the benchmark, Massachusetts had a shortage of over 20,000 housing units in 2008<sup>2</sup>. Since then, there has been very little housing produced. The statewide shortage of housing is expected to reach 29,926 by 2020, assuming modest economic growth and housing construction continues at the slow pace we've seen since the 1980s<sup>3</sup>.

It is widely recognized that an inadequate supply of affordable housing constricts Massachusetts' economic growth<sup>4</sup>. High housing costs deter skilled workers from locating in our state and spur current residents to leave to seek more affordable options. This has been a particular challenge for young professionals. Furthermore, employers worry that high housing costs locations require them to increase wages to retain talent and choose lower cost states as a result. High housing costs hurt the economy in the short-term as well by suppressing other types of consumer spending.

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<sup>1</sup> United States Census Bureau Data

<sup>2</sup> *Foundation for Growth: Housing and Employment in 2020*, University of Massachusetts Donahue Institute

<sup>3</sup> Ibid

<sup>4</sup> *Massachusetts at a Crossroads: Renewing the Competitiveness of Boston and the State*, John LaWare Leadership Forum, Boston, MA, March 24; *Voting with Their Feet? Local economic conditions and migration patterns in New England*, New England Public Policy Center at the Federal Reserve Bank of Boston; *The Lack of Affordable Housing in New England: How Big a Problem? Why Is It Growing? What Are We Doing About It?* New England Public Policy Center at the Federal Reserve Bank of Boston; *Sustaining the Massachusetts Economy: Housing Costs, Population Dynamics and Employment*, Professor Barry Bluestone, the Center for Urban and Regional Policy, Northeastern University; *Housing Supply Restrictions and the Economy*, Professor Edward Glaeser, Rappaport Institute for Greater Boston, Harvard University.

In fact, a 2009 University of Massachusetts Donahue Institute public opinion poll found that 35% of state residents or immediate family members were seriously considering leaving Massachusetts because of the high cost of housing and 64% felt high housing costs were hurting their local economy<sup>5</sup>.

Local communities and the state have a shared role in producing the homes our population and economy need. Unfortunately, that partnership has not adequately produced a sufficient diversity of housing options. One particular challenge is that too many towns require large tracts of land for a new single home to be built and outright prohibit multifamily housing development. Many towns feel a large lot zoning scheme that prohibits new condominiums or apartments is the best way to control growth because it is difficult for communities to completely stop development in areas they wish to shield from change. While effectively reducing growth, large lot zoning drives up the costs of housing and limits the types of housing constructed to large expensive homes that can support the costs of a large parcel.

There is another practical reason that the Commonwealth needs to ensure that local land use laws are not exclusionary; local exclusionary zoning may jeopardize federal funding. Communities receiving Community Development Block Grant (CDBG) and HOME Investment funds must certify that they are affirmatively furthering fair housing. In 2009, the U.S. District Court ruled that Westchester County, New York had “utterly failed to comply with the requirement that it perform and maintain a record of its analysis of impediments to fair housing choice in terms of race”<sup>6</sup>. A key problem was that Westchester County communities had adopted exclusionary zoning practices that exacerbated economic and racial segregation. The County was forced to commit \$51.6 million of its own funds for affordable housing and to commit to reform its zoning laws under a settlement agreement. The County also jeopardized its ability to receive millions in HUD funding due to its local land use laws because they did not provide adequate housing diversity. It is unclear whether Massachusetts communities with large lot zoning have exposure to similar legal action that threatens federal funding. In light of the Westchester County case, the state and local communities need to be careful that their zoning laws satisfy federal fair housing requirements.

The Comprehensive Permit Law, Ch. 40B and the Smart Growth Housing Law, Ch. 40R are two tools that developers and towns use to build affordable housing on smaller parcels. However, these programs cannot satisfy the Commonwealth’s full range of housing needs by themselves. Conventional local zoning also needs to produce housing for middle-income families if the state is going to increase its economic competitiveness and provide the housing options that enable people to live comfortably in our state.

H. 1271 stipulates that exclusionary large lot zoning that drives up the cost of housing can only be put in place if the community has also provided local zoning opportunities for housing on parcels that are smaller as well. This will significantly increase the diversity of housing created in our state by discouraging community-wide large lot zoning. The economics are simple: if a developer can build a home on a smaller parcel, they don’t need to pass the additional land cost on to the homebuyer. This can have a significant impact on affordability because Massachusetts land costs are high.

At the same time, H. 1271 will conserve local resources by reducing sprawling development patterns that require infrastructure and services to serve homes that are spread out on large lots. It also enables the community to control the amount of land that is developed within its borders by promoting more compact development.

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<sup>5</sup> *The 2009 UMass Donahue Institute/CHAPA Housing Poll*, April 2009.

<sup>6</sup> *United States of America ex. rel Anti-Discrimination Center of Metro New York v. Westchester County, New York*, 06 Civ. 2860 (DLC), Feb. 24<sup>th</sup>, 2009.

The text of H. 1271 is also included in S. 1019, the Comprehensive Land Use Reform and Partnership Act filed by Senator James Eldridge. S. 1019 is currently before the Committee on Municipalities and Regional Government. While we hope the Housing Committee will favorably report H. 1271 expeditiously, we also believe that the language in H. 1271 is a critical component of any attempt to comprehensively reform zoning and land use in Massachusetts and encourage you to advocate for an exclusionary zoning prohibition in that comprehensive zoning legislation as well.

H. 1266 clarifies that cities and towns may allow developers to include more homes on a parcel that is being developed if some of the homes are affordable. This density bonus for inclusionary zoning is an important tool to increase the range of housing options. It is important that this practice be authorized in statute and encouraged. Like H. 1271, there is similar language to the text of H. 1266 in S. 1019 and we also encourage this Committee to advocate for inclusionary zoning authorization in any zoning reform proposal that advances.

Given the current need for job growth and housing affordability, it is critical that the Commonwealth's planning and zoning statutes are well-positioned to help the Commonwealth continue to recover. We respectfully request your support for H. 1271 and H. 1266 to increase the diversity of housing options available in the Commonwealth. Thank you for your leadership and support and please let us know if we can be helpful in any way.