



### CHAPA Testimony

- **Supporting H.1130/S.694, *An Act relative to creating a statutory housing restriction and providing remedies related to statutory housing***
- **Supporting H.1089, *An Act relative to the housing development incentive program***
- **Opposing H.3429, *An Act relative to community block grants***
- **Opposing H.1101, *An Act relative to affordable housing***

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Dear Chairman Honan, Chairwoman Forry, and Distinguished Members of the Joint Committee on Housing,

Thank you for the opportunity to provide testimony regarding the following bills:

**Supporting H.1130/S.694, *An Act relative to creating a statutory housing restriction and providing remedies related to statutory housing***

CHAPA's mission is to encourage the production and preservation of housing that is affordable to low-income families and individuals. While there are many ways to accomplish the goal, it is important that housing that is created as affordable retains that status, which is often accomplished through a deed restriction.

Similar to other restrictions placed on deeds that limit future use, affordable housing restrictions insert language in a deed to ensure that a property is available to, and used by, households with limited incomes. However, because there is no standard statutory language, the language that create these restrictions vary from deed to deed.

These restrictions are sometimes unenforceable if not properly drafted. Consequently, this threatens the preservation of the affordable housing. The purpose of this legislation is to standardize and simplify elements of affordable housing restrictions to promote consistent interpretation and use.

Statutory housing covenants will help preserve affordable housing by assuring long-term continuation of the deed restriction by giving it sufficient, usable enforcement power against violators, such as unapproved mortgagees, and also by allowing the restriction to continue in effect for its intended term without approval from the Department of Housing and Community

Development (“DHCD”). Again, the legislation accomplishes that goal by establishing regularly used terms in statute and offering a consistent definition to have the restriction’s meaning derived directly from the statute. Though not required to create a valid affordable housing restriction, the use of these terms will provide consistency and reduce the possibility for interpretation contrary to the original intent to tie affordability to the property.

### **Supporting H.1089, *An Act relative to the housing development incentive program***

CHAPA supports efforts to strengthen the Housing Development Incentive Program (“HDIP”). HDIP is an important tool designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within housing development zones in Gateway Cities that have historically struggled to attract private investment in housing.

Currently, only projects that include substantial rehabilitation of existing structures may qualify for support from HDIP.<sup>1</sup> H.1089 gives municipalities and developers more flexibility in transforming neighborhoods by allowing new construction to also qualify as eligible HDIP projects.

CHAPA also supports other changes to strengthen HDIP. The following changes were developed with input from the Gateway Cities Caucus. First, projects that qualify under HDIP should be expanded not only to include new construction but also reuse. Again, this would give municipalities and developers more flexibility in transforming neighborhoods.

Additionally, the definition of “market rate residential unit” should be changed to include units priced for households between 80% and 120% of the area median income (“AMI”). The current definition requires market rate units to be priced for households above 110% of AMI.<sup>2</sup> Changing this definition allows the market more flexibility in determining market rate prices and encourages more families to move into HDIP neighborhoods.

Finally, the definition of “housing development project” should be amended so that 50% of the units can be market rate rather than the 80% of units currently required by HDIP.<sup>3</sup> An equal mix of market rate and affordable units make HDIP projects more feasible and allows for redeveloping neighborhoods without displacing residents. This would also increase flexibility based on local demand and financing options.

H.1089, along with each of the above changes to HDIP, will help neighborhoods in our Gateway Cities thrive.

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<sup>1</sup> See Mass. Gen. Laws ch. 40V, § 1 (defining “substantial rehabilitation” and “substantially rehabilitated”).

<sup>2</sup> See *id.* (defining “market rate residential unit”).

<sup>3</sup> See *id.* (defining “housing development project”).

### **Opposing H.3429, *An Act relative to community block grants***

CHAPA opposes changes to the Community Development Block Grant (“CDBG”) program proposed by H.3429. The U.S. Department of Housing and Urban Development’s (“HUD”) CDBG program distributes funds for a range of housing, employment, public and social service activities that meet one of three national objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet a need having a particular urgency.<sup>4</sup>

HUD distributes CDBG funds to Massachusetts using a needs-based formula: 70% goes directly from HUD to larger “entitlement” cities and towns (37 in Massachusetts) and 30% goes to Massachusetts to distribute to “non-entitlement” communities (314 in Massachusetts). The Commonwealth decides how to distribute these funds. This distribution plan is described in both a five-year Consolidated Plan and an annual Action Plan.<sup>5</sup>

The bill may require DHCD to periodically restrict eligibility for CDBG grants to lower-need communities. This would make CDBG unnecessarily inflexible and would divert resources away from high-need communities. If compelling reasons exist to fund CDBG-eligible activities in wealthier communities (e.g., fair housing), DHCD can do this by revising its targeting process in its Annual Plan or by amending its Consolidated Plan. Therefore, CHAPA opposes this bill and encourages changes to the CDBG distribution plan to be made through existing processes.

### **Opposing H.1101, *An Act relative to affordable housing***

CHAPA is concerned about the impact of this legislation on the state’s Affordable Housing Law, Chapter 40B. The Affordable Housing Law is critical to the production of much needed housing of all kinds, especially outside of larger cities, and it is an important economic engine. Since its inception, the Affordable Housing Law has created more than 60,000 homes for working families, seniors, and people with disabilities all across the state and supported thousands of construction and construction-related jobs. Without additional housing, the state’s economic growth will be stymied and housing opportunities will be limited.

This bill amends Chapter 40B by requiring developments built under the Affordable Housing Law to meet certain percentages of affordable units within the development. CHAPA does not support this effort to amend Chapter 40B through legislation.

Chapter 40B has operated without statutory changes since its enactment in 1969 because the law has continued to evolve through regulatory changes. Led by the DHCD, these changes have addressed local concerns while continuing to meet the affordable housing needs of the Commonwealth. Amending the language of Chapter 40B weakens the integrity of the Affordable Housing Law and leaves it vulnerable to additional changes and carve-outs, eventually gutting

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<sup>4</sup> *Community Development Block Grant*, U.S. Dep’t of Hous. & Urban Dev., [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs).

<sup>5</sup> See *Community Development Block Grant (CDBG)*, Mass. Dep’t of Hous. & Cmty. Dev., <http://www.mass.gov/hed/community/funding/community-development-block-grant-cdbg.html>.

the law and making it ineffective. CHAPA supports using the regulatory process to help Chapter 40B continue to grow and change to meet the local concerns of communities across the Commonwealth.

Thank you for your consideration. If you have any questions, please contact me at [eshupin@chapa.org](mailto:eshupin@chapa.org) or (617) 742-0820.