



Testimony in Support of S. 122, *An Act Promoting the Planning and Development of Sustainable Communities*

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Submitted By:  
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Dear Chairwoman O'Connor Ives, Chairwoman Ferrante, and Members of the Committee:

I am here today in support of S. 122, *An Act Promoting the Planning and Development of Sustainable Communities* and more generally, the need to reform the Commonwealth's land use and zoning laws.

Promoting a strong Massachusetts economy and a healthy quality of life requires strategic and efficient development decisions. Unfortunately, the Commonwealth's laws enabling municipalities to plan and zone for development are antiquated. These laws aren't producing the results Massachusetts need.

Massachusetts simply does not have enough housing supply to meet the demand. New housing construction has remained inadequately low since the 1980s, creating tight markets that drive up costs. In the last decade, the Commonwealth had the 4<sup>th</sup> lowest rate of housing construction in the nation<sup>1</sup>. According to the Metropolitan Area Planning Council, Massachusetts needs 17,000 new homes built each year through 2040 to support our current job base<sup>2</sup>.

It is widely recognized that an inadequate supply of affordable housing constricts Massachusetts' economic growth<sup>3</sup>. High housing costs deter skilled workers from locating in our state and spur current residents to leave to seek more affordable options. 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>4</sup>. 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 also hurt the economy by suppressing other types of consumer spending.

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

<sup>2</sup> *Unlocking the Commonwealth*, Massachusetts Housing Partnership, November 5<sup>th</sup>, 2014, p.4, [http://www.mhp.net/uploads/resources/unlocking\\_the\\_commonwealth\\_nov2014.pdf](http://www.mhp.net/uploads/resources/unlocking_the_commonwealth_nov2014.pdf)

<sup>3</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.

<sup>4</sup> *The 2009 UMass Donahue Institute/CHAPA Housing Poll*, April 2009.

Local communities and the state have a shared role in producing the homes our population and economy need. The way the state currently empowers municipalities to plan and regulate development does not provide the proper set of flexibility and directives for localities to produce necessary results. The Zoning Enabling Law, Chapter 40A, has not had a suitable update in over 35 years.

One particular challenge is that too many towns require large tracts of land for a new single home to be built. Many towns feel large-lot zoning 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.

Too often, towns view these types of individual land use decisions in isolation. Immediate budget challenges make it difficult to step back and consider the long-term impacts of halting housing growth. In a state where planning and zoning are divorced from one another, there aren't sufficient linkages to confront the challenges that piecemeal zoning decisions create. Collectively, local zoning schemes have had a significant negative impact on housing choice and opportunity.

The Comprehensive Permit Law, Ch. 40B and the Smart Growth Housing Law, Ch. 40R are two tools that developers and municipalities use to build affordable housing on smaller parcels. However, these programs are designed to produce deed-restricted affordable housing and 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.

An Act Promoting the Planning and Development of Sustainable Communities is a balanced and reasonable approach to reform planning, zoning and permitting. The bill includes necessary statewide reforms to address the need for a more diverse housing stock and the need for additional housing options for Massachusetts residents. In addition to this legislation, new housing tools are needed to meet the Commonwealth's production needs. CHAPA has a bill before the Housing Committee to increase housing production. H. 1111, *An Act Relative to Housing Production*, filed by Chairman Kevin Honan. The bill includes mandatory measures such as multifamily zoning in communities across the state; along with financial incentives, the removal of administrative barriers, and new tools to accelerate housing production. H. 1111 and S. 122 are two important elements in meeting our state's housing needs.

S. 122 incentivizes thoughtful local planning. Today, a community's Master Plan sets out general goals for the growth, development, and protection of the community with no requirement that the municipality's zoning conforms to the Master Plan. Consequently, it is difficult for community members and real estate investors to predict or encourage development opportunities. Under this bill, if a local zoning decision is challenged in a lawsuit, the challenged provision shall be deemed to serve a public purpose if the provision is consistent with a local master plan.

The bill reforms the variance process so that developers and homeowners can seek variances from minor barriers to property renovations instead of requiring more onerous zoning changes. Today, the legal standard for a zoning board to grant a variance is extremely high and frustrating to homeowners.

The legislation creates a presumption that subdivision roadway width can't be excessive. This saves developers money by reducing the amount of land necessary to build a subdivision and reducing impervious surfaces and asphalt.

Impact fees for local capital needs created by a development are authorized. This enables the community to fund water and sewer upgrades, sidewalks, and traffic management. It also provides investors with predictability about how they are expected to invest in necessary infrastructure. It makes sure the benefits the community receives are directly related to the development and benefit the development.

Inclusionary zoning is authorized. This will clarify in statute that a community is allowed to require that a developer must sell or rent a percentage of homes in a new development at an affordable cost. In exchange, the municipality may grant the developer the ability to build a more compact development.

The proposal also provides additional tools and incentives to communities that choose to opt-in by making four specific zoning changes. The changes include adopting districts allowing compact housing and economic development and protecting open space and water quality in certain types of developments. In exchange for taking these actions, municipalities would receive enhanced benefits that include:

- Preference for state infrastructure funding and discretionary grants;
- Eligibility for state planning funds;
- Broader allowable uses of development impact fees for capital facilities such as schools, libraries, and other municipal buildings;
- Authority to adopt very low density natural resource protection zones (10 acres per dwelling unit) to protect land of high natural resource value; and
- Reduced vesting period for definitive subdivision plans.

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 encourage the Committee to advance land use and zoning reform legislation quickly so that the full legislature has the opportunity to enact this meaningful legislation. Thank you for your leadership and support and please let us know if we can be helpful in any way.