



September 12, 2023

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Secretary Edward M. Augustus
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114

Dear Secretary Augustus:

Thank you for your commitment to implementing the MBTA Communities Multifamily Zoning law, Section 3A of the Zoning Act, and for recognizing the critical role that by right multifamily zoning has in producing the homes that people, our communities, and the Commonwealth need to thrive. CHAPA applauds recent changes to guidelines that add thirteen state funding programs communities will be eligible for upon achieving compliance with the law. We write to offer recommendations on the changes to guidelines that allow communities to offset the minimum multifamily unit capacity in certain mixed use zoning districts that require first floor commercial space.

Citizens' Housing and Planning Association's (CHAPA) mission is to encourage the production and preservation of homes that are affordable to people with low and moderate incomes and to foster diverse and sustainable neighborhoods through planning and community development. At CHAPA, we believe everyone should have a safe, healthy, accessible, and affordable home in the community they choose, and that housing is the single best investment Massachusetts can make to secure a healthy future for all. CHAPA is currently working with more than 40 communities to engage residents in shaping new multifamily districts, as well as with developers who build affordable housing throughout the state.

The multifamily zoning requirement for communities served by the MBTA is a critical tool for meeting the housing needs of the Commonwealth, making it possible to meet the goal of producing 200,000 new homes with 40,000 affordable and 20,000 deeply affordable homes by 2030. We are thankful for the leadership of the Healey-Driscoll Administration and the Executive Office of Housing and Livable Communities (EOHLC) in supporting communities to establish their MBTA Communities Multifamily districts. In addition to meeting the state's housing production goals, this law provides communities with a powerful tool for economic development, advancing climate goals, and fostering inclusivity.

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Mixed use development is vital to achieving these goals. Prior to the recent changes made by EOHLC allowing communities to require commercial space in approved mixed-use districts, the guidelines provided communities with the ability to offer incentives for mixed use development. Incentives, such as allowing increased density and height in exchange for first floor commercial space make mixed use development viable. The new guidance allowing communities to establish mixed use districts with commercial requirements can push costs for development, maintenance, and operations of these buildings beyond what the market can bear for rents, home prices, and commercial leases; potentially making development unfeasible.

CHAPA applauds key provisions included in the guidance intended to make mixed use production possible, including requiring a broad mix of non-residential uses by right and prohibiting minimum parking requirements for non-residential uses. In addition, requiring communities to have mixed use development districts pre-approved by EOHLC prior to the community's vote provides the opportunity for EOHLC to determine where commercial requirements can support thriving mixed-use districts. To help communities make this determination, clear decision-making criteria are important. Requiring a market analysis would be most beneficial. It is critical to demonstrate the strength of the commercial market to understand if a commercial space requirement will be subsidized by the housing component, driving up rents and home prices beyond what the market can bear. This can make housing more expensive and result in long term commercial vacancies or make it too costly to produce housing. A market analysis would ensure that commercial requirements are determined with the same level of rigor as inclusionary zoning requirements that exceed the 10% allowed in the guidelines. With no market analysis required in the guidelines, CHAPA requests EOHLC establish the following criteria for approving mixed use development districts.

Proposed Criteria for Approving Commercial Space Requirements in Mixed Use Development Districts under MBTA Multifamily Zoning Law (3A)

- Require a Commercial Vacancy Rate Lower than 8% for Existing Commercial Spaces
 - Tying the approval to the existing commercial vacancy rate provides EOHLC with key data to understand the health of the commercial market, which impacts a developer's ability to obtain financing to develop a project. Vacancy rates above 5-8% indicate a lower demand for commercial space. Allowing a commercial requirement in a district with a high commercial vacancy rate can result in less housing, vacant storefronts, or no new development until the market changes.
- Require an Approved Housing Production Plan (HPP)
 - The goal of the MBTA Communities Multifamily Zoning law is to make housing production possible. Housing Production Plans demonstrate the different strategies communities will use to foster housing production that meets identified needs.

Allowing communities to establish mixed use development districts with commercial requirements can reduce housing production in mixed-use districts. If the commercial requirement hampers housing development in the mixed-use district, other strategies adopted by the community can advance housing production in other locations.

- Require Housing Choice Designation
 - This designation demonstrates that a municipality has put in place best practices established by the Commonwealth to support housing production. Like the Housing Production Plan, having multiple strategies and policies in place to support housing production provides a variety of ways to expand housing opportunities for people, advancing the purpose of the MBTA Communities Multifamily Zoning law.
- Require Assurance of Adequate Supporting Infrastructure
 - Similar to infrastructure requirements for Chapter 40R districts, communities must demonstrate adequate water/ sewer/ septic resources to support additional commercial spaces to ensure viability of mixed-use developments.

Clear criteria for mixed use development districts will help communities determine which options within the 3A guidelines will work best for them. Clear and objective criteria will also help EOHLC make decisions that meet the goals of the law and support communities in fostering vibrant Main Streets.

We look forward to working with you to support communities in expanding housing opportunities and putting the Commonwealth on the path to a bright future where everyone can thrive.

Sincerely,



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