



Citizens' Housing and  
Planning Association, Inc.

### **CHAPA Testimony Supporting:**

- ***H.1095, An Act Relative to Smart Growth Multifamily Housing Production***
- ***H.2420, An Act Building for the Future of the Commonwealth***
- ***S.1120, An Act Relative to Preventing Discriminatory Land Use and Permitting Decisions***

Submitted by Rachel Heller  
Chief Executive Officer  
Citizens' Housing and Planning Association  
May 2, 2017

Dear Chairman O'Day, Chairman Moore, and Distinguished Members of the Joint Committee on Municipalities and Regional Government,

Thank you for the opportunity to testify today in support of these three bills, all of which will reform our state's land use and zoning laws to address our housing shortage and affordability crisis. I respectfully request the Committee to report these bills out favorably.

The mission of Citizens' Housing and Planning Association (CHAPA) is to encourage the production and preservation of housing that is affordable to low and moderate income families and individuals and to foster diverse and sustainable communities through planning and community development.

Unfortunately, our current restrictive and antiquated land use and zoning laws prevent us from achieving our mission. Consequently, housing prices continue to rise, leaving too many in the Commonwealth struggling to pay their rent or unable to find a safe, healthy, and affordable place to call home. In order to support a thriving economy and a healthy way of life, we need to have every city and town do their part to meet our housing need, update our zoning laws, and prevent discrimination against affordable housing or housing suitable for families with children.

## Massachusetts Does Not Produce Enough Housing

When it comes to affordable housing, Massachusetts has a supply and demand problem. In recent years, cities and towns in Massachusetts have permitted less housing than at almost any point since the 1950s. In the 1970s, we produced over 30,000 new homes, including over 15,000 units of multifamily housing. Today, Massachusetts is producing less than half of that amount.<sup>1</sup>

Unfortunately, this means we are not keeping pace with our demand for housing. Without accounting for any population or economic growth, Massachusetts is already about 44,000 units short of demand.<sup>2</sup> If we maintain our current pace of housing construction, there will be a shortage of over 80,000 units by 2030.<sup>3</sup> In order to actually keep pace with demand, the Metropolitan Area Planning Council estimates that we need at least 17,000 new homes built in Massachusetts every year – this does not even account for population or job growth.<sup>4</sup>

Additionally, the type of housing being built is generally not targeted toward the growing population of low- and moderate-income renters.<sup>5</sup> Permits for multifamily housing have declined in the past year, putting more pressure on the low- and moderately-priced housing stock that does exist.<sup>6</sup> In addition, restrictive zoning in many communities prevents certain types of housing development, exacerbating our high housing costs and housing shortage.<sup>7</sup>

## Massachusetts is One of the Least Affordable States in the Nation

The *US News & World Report* ranks Massachusetts #1 in its Best States Overall Ranking<sup>8</sup>, and *Governing* magazine ranks Massachusetts #1 in overall economic performance.<sup>9</sup> While these are certainly significant accolades, the rankings themselves belie the Commonwealth's affordability reality. Alarming, Massachusetts ranks 47<sup>th</sup> in Cost-of-Living & Housing Affordability.<sup>10</sup> It ranks 45<sup>th</sup> in Income Equality<sup>11</sup> because while *average* wages have increased, the *median* inflation-adjusted wage has actually decreased since 2009, with those in the bottom 20<sup>th</sup> percentile experiencing the largest decline.<sup>12</sup> Clearly, economic growth in Massachusetts has not reached all residents, worsening the affordability struggle of low-wage workers and their families.

Our housing shortage helps keep Massachusetts in the top ten for least affordable states for renters, with a minimum-wage worker required to work over 100 hours per week (or have 2.6 full-time

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<sup>1</sup> Data from the U.S. Census Bureau, Building Permit Survey.

<sup>2</sup> Analysis of Massachusetts Housing Partnership of county-level data from 2015 American Community Survey, U.S. Census Bureau.

<sup>3</sup> Demand projections from Metropolitan Area Planning Council, [www.mapc.org/projections](http://www.mapc.org/projections).

<sup>4</sup> Mass. Hous. P'ship, *Unlocking the Commonwealth: New Housing and Growth Policies to Help Massachusetts Realize its Full Potential*, 4 (Nov. 5, 2014).

<sup>5</sup> See *The Greater Boston Housing Report Card 2016*, The Boston Foundation, 16 (2016).

<sup>6</sup> U. S. Census Bureau, *Housing Report Card*, 7 (2016).

<sup>7</sup> Massachusetts Housing Partnership, *Unlocking the Commonwealth*, 9 (Nov. 5, 2014).

<sup>8</sup> U.S. News & World Report, *Best States Ranking* (2017), <https://www.usnews.com/news/best-states>.

<sup>9</sup> Jacobson, Louis, "The Best of Times, the Worst of Times: A Ranking of State Economies," *Governing Magazine*, (Aug. 22, 2016).

<sup>10</sup> U.S. News & World Report, *Best States Ranking* (2017), <https://www.usnews.com/news/best-states>.

<sup>11</sup> *Id.*

<sup>12</sup> Kendall, Sandra, ed., The Boston Foundation, *The Greater Boston Housing Report Card 2016*, 16 (2016).

jobs) in order to afford an average 2-bedroom apartment.<sup>13</sup> According to the Joint Center for Housing Studies at Harvard, nearly 50% of all renters in Massachusetts are rent-burdened, paying more than 30% of their income for rent, and more than half of those (or nearly 250,000) are severely rent-burdened, paying more than 50% of their income for rent.<sup>14</sup> Nearly all the severely rent-burdened households are low-income (17% more than before the 2008 recession), putting them at greater risk of becoming homeless.<sup>15</sup> This is a problem affecting the entire Commonwealth, with rent-burdens growing in urban and non-urban areas. For example, in Franklin County, the number of rent-burdened households grew from 35% in 2000 to 45% in 2014.<sup>16</sup>

### **Supporting Investments in Affordable Housing**

Massachusetts has invested tremendous resources in housing. We are one of the few states to have our own public housing stock, a strong affordable housing law, Chapter 40B, and our own state rental subsidy programs. Massachusetts also makes significant investments through the capital budget and the state Low Income Housing Tax Credit to produce and preserve affordable housing.

However, when affordable housing demand is high and supply falls short, even these additional resources are not enough to meet the needs of the low- and moderate-income households. Today, nearly 3,500 families still remain in homeless shelters.<sup>17</sup> Additionally, over 107,000 households struggle to hold onto housing as they can wait a decade for rental assistance.<sup>18</sup> Despite the great commitment of Massachusetts to affordable housing, until we address the underlying problem of our shortage of housing, we will not be able to address or housing affordability and homelessness crises.

### **Fair Housing Implications**

Our lack of housing production also presents serious fair housing implications for the Commonwealth. Fair housing choice is rooted in the right to live where one wants to live without the threat of discrimination.<sup>19</sup> The Supreme Court and the U.S. Department of Housing and Urban Development recently affirmed their commitment to supporting fair housing laws and affirmatively furthering fair housing.<sup>20</sup> Housing choice plays a substantial role in fulfilling these rights by providing individuals and families with “critical opportunities needed to excel in our society, such as high-performing schools, sustainable employment, stable housing, safe neighborhoods, and health care.”<sup>21</sup>

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<sup>13</sup> National Low Income Housing Coalition, *Out of Reach* 109 (2016), <http://nlihc.org/oor>.

<sup>14</sup> Joint Center for Housing Studies of Harvard University, *America’s Rental Housing*, Table A-5, A-6 (Dec. 2015).

<sup>15</sup> Center for Budget and Policy Priorities, *MA Fact Sheet: Federal Rental Assistance* (2016).

<sup>16</sup> Joint Center for Housing Studies of Harvard University, [www.jchs.harvard.edu/research/interactive-maps](http://www.jchs.harvard.edu/research/interactive-maps).

<sup>17</sup> Homes for Families (Feb. 13, 2017) <http://www.homesforfamilies.org>.

<sup>18</sup> Massachusetts Department of Housing and Community Development, *Moving to Work DRAFT Plan for FY2018*, 8 (Feb. 2017).

<sup>19</sup> See, e.g., Fair Housing Act, 42 U.S.C. § 3604; see also Mass. Gen. Laws ch. 151B, § 4.

<sup>20</sup> See *Texas Department of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507 (2015) (holding that disparate-impact claims were cognizable under the Fair Housing Act); see also 24 C.F.R. § 100.500 (clarifying and extending the duty to affirmatively further fair housing to all of a program participant’s activities relating to housing and urban development).

<sup>21</sup> Kirwin Institute Study of Race & Ethnicity, *The Geography of Opportunity: Building Communities of Opportunities in Massachusetts*, Ohio State University (Jan. 2009).

The Commonwealth's exclusionary zoning and land use barriers impede the development of affordable housing, which disproportionately affects protected classes, including families with children and minorities. For example, local policies, including the elimination of multifamily zoning and the growing tendency to limit new developments to projects that only have 1 or 2 bedrooms or restrict occupancy to age 55+ households, limit housing opportunities for families with children in many suburbs and small towns. Unfortunately, these exclusionary land use practices disproportionately impact households with lower-incomes.

### **Solutions to Meet Our Housing Needs**

Fortunately, the legislation that CHAPA supports before the Committee today will help address these housing challenges by requiring every city and town do their part to meet our housing need, updating our zoning laws, and preventing discrimination against affordable housing or housing suitable for families with children.

#### ***H.1095, An Act Relative to Smart Growth Multifamily Housing Production***

CHAPA respectfully requests that the Committee report out favorably H.1095, sponsored by Representative Kevin Honan. This bill requires that all Massachusetts zoning ordinances and bylaws provide the opportunity to build multifamily housing suitable for families with children. According to the Metropolitan Area Planning Council, two-thirds of all new housing we need to meet anticipated demand over the next thirty years needs to be multifamily housing such as apartments or townhouses.<sup>22</sup> However, local zoning regulations in cities and towns across the Commonwealth prevent the development of all but the most expensive type of housing – single-family homes on large lots.<sup>23</sup> Alarming, more than a third of our cities and towns have permitted nothing but single-family homes over the past decade, and half of municipalities have gone at least ten years without permitting any multifamily housing of five or more units.<sup>24</sup> If we continue these restrictive zoning practices, our economy will weaken, housing costs will continue to rise, and families will be left without meaningful housing opportunities.

Chairman Honan's bill would help every city and town to do their part in helping to meet our housing need by requiring each municipality to create at least one zoning district in smart growth locations<sup>25</sup> where multifamily housing for families that can be built as-of-right. This will also allow cities and towns to control their own growth and development by allowing them to choose where those districts are located.

CHAPA favors this strong multifamily zoning requirement contained in Chairman Honan's bill. The Great Neighborhoods bill, H.2420, *An Act Building for the Future of the Commonwealth*, also

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<sup>22</sup> *Unlocking the Commonwealth* at 9.

<sup>23</sup> Mass. Dep't of Hous. & Cmty. Dev., *Analysis of Impediments to Fair Housing Choice: Access to Opportunity in the Commonwealth* 6 (Jan. 2014).

<sup>24</sup> *Unlocking the Commonwealth* at 9.

<sup>25</sup> Areas that by virtue of their infrastructure, transportation access, existing underutilized facilities, or location make highly suitable locations for residential zoning districts, including without limitation (1) areas near transit stations; or (2) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns, and existing rural village districts.

contains a multifamily housing provision. However, H.2420 does not require municipalities to create zoning districts where multifamily housing is allowed as-of-right. Instead, H.2420 only requires that cities and towns provide the realistic and reasonable opportunity to build multifamily without requiring the zoning to be as-of-right. The stronger requirement contained in Chairman Honan's bill will create more housing opportunities across the Commonwealth and will better help our housing shortage.

### ***H.2420, An Act Building for the Future of the Commonwealth***

CHAPA also respectfully requests the Committee to report out favorably, H.2420, sponsored by Representative Stephen Kulik and Representative Sarah Peake. This bill provides a balanced approach for reforming our state's planning, zoning, and permitting laws to help create thriving neighborhoods that work for families and seniors, build additional housing opportunities, and support healthy, walkable communities that preserve open space and our natural resources.

Specifically, CHAPA supports the provisions in the bill that address housing production. These include sections on multifamily housing production and preventing cities and towns from making discriminatory land use decisions because a development has affordable housing or housing suitable for families with children. Similar provisions are contained in the two other bills, H.1095 and S.1120, which CHAPA is also testifying in favor of today.

CHAPA also supports improving the ability of homeowners to create Accessory Dwelling Units (ADUs). Also known as in-law suites, ADUs are small units built within the main structure of an existing home or small units created in a detached structure, such as a garage. These can be used to relatives, caregivers, or sometimes renters. H.2420 allows ADUs to be built as-of-right if they are contained within the structure of an existing home. These will help increase our housing supply by creating, smaller, more affordable housing options for groups like seniors or persons with disabilities.

To help create affordable housing opportunities, CHAPA also supports the codification of inclusionary zoning including in H.2420. 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.

### ***S.1120, An Act Relative to Preventing Discriminatory Land Use and Permitting Decisions***

CHAPA also respectfully requests that the Committee report out favorably S.1120, filed by Senator Sonia Chang-Diaz. This bill is based on a law from North Carolina making it illegal to discriminate in land use decisions against protected classes and affordable housing. Specifically, S.1120 makes it an unlawful discriminatory practice for government entities to reject housing developments simply a development would include affordable housing or housing suitable for families with children.

This type of socio-economic discrimination is fundamentally unfair and has significantly contributed to the shortage of affordable housing in Massachusetts. The Commonwealth's civil

rights statute, Chapter 151B, is an appropriate place to ensure protection for those in need of affordable housing because this is civil rights issue of equity and fair housing. However, the bill provides protections for municipalities by making clear that government entities are entitled to make land use decisions based on any bona fide governmental interest.


### **Conclusion**

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 meet these needs. Again, we encourage the Committee to advance these land use and zoning reform legislation so that the full legislature has the opportunity to enact this meaningful legislation.

As always, thank you for your leadership and for helping to make sure everyone in the Commonwealth has a safe, healthy, and affordable place to call home.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Heller".

Rachel Heller  
Chief Executive Officer  
Citizens' Housing