



Board of Directors

August 6, 2020

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RE: CHAPA Recommendations for the Economic Development Bill

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Dear Distinguished Members of the Economic Development Bill Conference Committee,

Clerk

Naomi Sweitzer

On behalf of Citizens' Housing and Planning Association (CHAPA), thank you to both the House and Senate for prioritizing affordable housing and community development in your Economic Development Bills. Thanks also for your clear commitment to ensuring that housing is part of our economic development and recovery from COVID-19. In order to make the Economic Development Bill as strong as possible for affordable housing and community development, I am writing to share recommendations for the Committee to consider as you finalize the bill.

Howard Cohen

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Dr. Megan Sandel

CHAPA's mission 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.

Chief Executive Officer

Rachel Heller

During the ongoing pandemic, housing stability is critical to positive health outcomes, protecting public health, and supporting economic development and recovery. CHAPA's approach to ensuring housing stability during the COVID-19 crisis is to ensure equitable policies and programs for Massachusetts residents. We advocate for the resources and policies needed to support renters, homeowners, and landlords and to preserve and expand the state's affordable housing stock to make sure everyone in the Commonwealth has a safe, healthy, and affordable place to call home.

Unfortunately, Massachusetts faces unprecedented economic and housing challenges caused or exacerbated by COVID-19. The Economic Development Bill will help address these needs. As the Committee works to reconcile H.4887 and S.2874, CHAPA respectfully asks you to quickly move forward a bill with the following recommendations.

Zoning Reforms to Increase Housing Production

Prioritize including Housing Choice provisions.

CHAPA sincerely thanks both the House and Senate for addressing our housing shortage by including critical zoning reforms in each of your Economic Development Bills. By including these reforms, the Legislature makes clear that housing is critical to our economic development and recovery. These provisions also demonstrate support for communities as they work to build more housing affordable to all incomes. These reforms will begin to undo exclusionary zoning and help ensure that everyone has the opportunity to live in the community of their choice.

The zoning reforms in the House and Senate bills include: (1) Housing Choice provisions, contained in both the House and Senate bills; and (2) provisions to require multifamily zoning in communities served by the MBTA, included in only the Senate bill.

CHAPA respectfully asks the Committee to prioritize including the Housing Choice provisions in the final Economic Development Bill.

Housing Choice Provisions – Thanks again to both the House and Senate for including the Housing Choice provisions, which will help cities and towns approve certain smart growth zoning practices and affordable housing developments by lowering the required vote from a two-thirds to a simple majority.¹ Passing Housing Choice as part of the final Economic Development Bill is critical to meeting the Commonwealth's housing needs and for making housing part of our economic recovery. Housing Choice will also empower communities to begin undoing exclusionary policies that prevent housing production and perpetuate segregation.

Housing Choice enjoys broad support from affordable housing advocates, municipalities, and the real estate industry because the provisions provide new and meaningful opportunities to create housing driven by local decision-making. With fall town meetings approaching and more zoning and housing decisions coming up for votes, adopting Housing Choice is critical to helping communities create opportunities for the development of affordable homes that the Commonwealth needs.

Although the House and Senate versions of the Housing Choice provisions are very similar, the Senate version would allow inclusionary zoning bylaws to be adopted by a simple majority.² CHAPA supports adding inclusionary zoning to the list of smart growth zoning subject to Housing Choice. This will help cities and towns ensure that any new multifamily housing built in the community includes the creation of affordable homes.

¹ H. 4887, 191st Gen. Ct. §§ 16–23 (Mass. 2020); S. 2874, 191st Gen. Ct. §§ 26–27, 29–34 (Mass. 2020).

² S. 2874, § 29 (the paragraph this section adds to M.G.L. ch. 40A, § 5, includes inclusionary zoning in clause (v)).

CHAPA recognizes that Housing Choice is not a standalone solution to Massachusetts' affordable housing crisis. Additional strategies will be needed to address the many housing challenges faced by residents in the Commonwealth. As always, CHAPA will continue to work with the Legislature to pass policies that further increase access to affordable housing, prevent displacement, and reduce homelessness.

Multifamily Zoning Requirement in MBTA Communities – CHAPA thanks the Senate for including a requirement that communities served by the MBTA have at least one multifamily zoning district around a commuter rail or other public transportation station.³ This would allow transit-oriented development to be built in communities with the necessary infrastructure to support more housing and where demand for housing is the greatest. Housing built around public transportation can also help reduce reliance on cars and lower greenhouse gas emissions.

Although CHAPA supports building more housing around public transportation, Housing Choice is needed to make this policy effective. While the provision requires communities to establish areas around transit zoned for multifamily housing, communities will need to develop proposals and vote on the changes to their local zoning. Housing Choice will empower the simple majority to make this change, allowing for much needed housing development around transit.

We hope the Committee will prioritize including Housing Choice to provide communities with a more equitable decision making process around the zoning and land use decisions that allow for the homes that Massachusetts so greatly needs. Passing Housing Choice would truly be a meaningful zoning reform and would allow us to continue working on the other policies we need to create more affordable housing, such as working to build housing around public transportation.

Expansion of the State Low Income Housing Tax Credit

Include language from the House bill

CHAPA asks the Committee to include provisions that would temporarily expand the Massachusetts Low Income Housing Tax Credit (LIHTC) by \$20 million for the next five years.⁴ The state LIHTC supports public-private partnerships to create affordable housing. In its 21-year history, the Massachusetts LIHTC has created or preserved over 11,600 homes, including more than 9,400 affordable units for low income residents and 2,100 market rate units in communities across the Commonwealth.⁵

The pandemic has highlighted the importance of safe, healthy, and affordable housing. At a time when thousands of residents face job or income losses, new affordable homes are desperately needed. Affordable housing production is vital to personal health, public health, and our economic recovery. Temporarily expanding the state LIHTC will stimulate affordable housing production, helping to meet our housing needs and creating jobs. Since the program began, it has created an estimated 14,000 construction

³ S. 2874, § 28.

⁴ H. 4887, §§ 54–55A, 56–57A, 122.

⁵ Massachusetts Department of Housing and Community Development.

jobs. The housing developments built with the tax credit have also supported over 4,000 ongoing employment opportunities.⁶

Eviction Pre-Mediation Requirement

Do not include language from the House bill

The House bill contains language that would require landlords and tenants to participate in pre-mediation before an eviction case goes before a judge.⁷ CHAPA appreciates that the House recognizes the challenge facing thousands of tenants who have fallen behind on rent because of COVID-19 or risk being evicted once the moratorium is lifted. However, mediation alone, without taking action to correct existing imbalances in power, will not get tenants out of the current crisis. Therefore, CHAPA respectfully requests that this language not be included in the final Economic Development Bill.

Unfortunately, because the language from the House bill does not offer a lawyer for tenants, the stark imbalance in Housing Court—where 93% of tenants appear without an attorney—will exist in mediation with unrepresented tenants going into virtual mediation sessions alone against represented landlords. Tenants facing eviction need resources to achieve housing stability, time to access these resources, and legal representation. CHAPA will continue to advocate for these emergency rental assistance resources as well as creating a right to counsel for low income residents facing eviction because of COVID-19. Again, we ask that you do not include Section 109 from the House bill while we work with the Legislature to develop the full continuum of support that will help people stabilize their housing and prevent unnecessary eviction and homelessness.

Affordable Housing Production Goal

Include language from the Senate bill

CHAPA asks the Committee to include language from the Senate bill that sets a goal of building 427,000 new homes by 2040, which is the estimated amount of housing needed to keep up with projected demand. The provision also sets a goal for 20% of that housing to be affordable, with 10% dedicated to extremely low income households.⁸ By setting and working towards these goals, we will better understand the resources and policies needed to achieve these goals.

⁶ See National Association of Homebuilders, *The Local Economic Impact of Typical Housing Tax Credit Developments*, 2 (Mar. 2010) (the estimated local impact of building 100 apartments in a typical family tax credit development include supporting 122 one-year jobs and 30 annual recurring jobs).

⁷ H. 4887, § 109.

⁸ S. 2874, § 94.

Abutter Appeals Reform

Include language from the Senate bill

CHAPA asks the Committee to include language from the Senate bill that reforms abutter appeals, which is the process by which neighbors can challenge a proposed housing development.⁹ Currently, abutters can appeal a proposed development for almost any reason. Frivolous abutter appeals with no underlying merit have been used to delay or stop affordable housing developments. The language allows courts the discretion to require a neighbor appealing a decision to approve a special permit, variance or site plan to post a bond of up to \$50,000 if the court determines that the appeal is frivolous or lacks merit. This will allow genuine abutter appeals to be heard while discouraging appeals meant only to stop a housing development.

Appointment Process for Tenant Board Members at Housing Authorities

Include the language along with the 120-day effective date

CHAPA thanks both the House and Senate for including important provisions in your Economic Development Bills that will improve the governance of public housing by creating an appointment process to fill the tenant seat for local housing authority boards in towns.¹⁰ This will allow public housing reforms enacted in 2014 to be fully implemented. CHAPA asks that these provisions be included in the final Economic Development Bill. We also ask that the section from the Senate bill that would enact these provisions after 120 days be included. This timing is important to allow for housing authority boards and their members to prepare for the tenant appointment.¹¹

Eviction Records Sealing

Include language from the Senate bill

CHAPA thanks the House and Senate for both recognizing the prolonged negative impact that eviction records can have on the ability for people to apply for or find housing by including provisions to seal certain eviction records. The House language would prevent minor children from being named as a party in an eviction case.¹² The Senate includes this language and creates additional protections for certain eviction cases.¹³ CHAPA respectfully asks the Committee to include the Senate language on eviction records in the final Economic Development Bill.

In addition to protecting minors from being named in cases, the Senate bill also creates additional protections to prevent certain evictions from having lasting damage on a person's ability to find a home. The Senate bill creates a process for any person with a no-fault eviction, defined as an eviction that is not for the nonpayment of rent or material lease violation, to seal that court record. Next, the bill prohibits no-fault

⁹ S. 2874, § 34.

¹⁰ H. 4887, §§ 62A–62C, 106A, 112A–112C; S. 2874, §§ 64–66, 102–105, 121.

¹¹ S. 2874, § 121 (setting an effective date of 120 days after the Economic Development Bill goes into effect).

¹² H. 4887, § 83.

¹³ S. 2874, § 88.

evictions from having negative impacts on a person's credit report. Finally, the Senate bill requires a party who obtains a judgment in an eviction action to enter a notice of satisfaction of judgment within 14 days of the judgement being satisfied.

Commission Studying Impact of COVID-19 on Property Owners

Include commission created by the Senate bill

CHAPA asks that the Committee include the provisions from the Senate Economic Development that creates a commission to study the impact of COVID-19 on the owners of residential and commercial property who rely on the rental income to help pay their mortgage.¹⁴ As the virus and its economic impact spreads, both renters and owners will continue to need resources and support to help ensure that tenants do not lose their home during the pandemic and owners are able to keep their property safe and in good repair. Studying ways to help owners pay their mortgage will prevent buildings from going into foreclosure and the threat of displacement that this will cause for tenants.

Commission Studying Barriers Faced by Low Income Workers

Include commission created by the Senate bill

CHAPA asks that the Committee include the provision from the Senate Economic Development Bill that creates a commission to study barriers faced by low-income workers to finding and maintaining jobs in the commonwealth.¹⁵ Unfortunately, low income workers, including those in the service or food industry, have been disproportionately impacted by the virus and have lost jobs or incomes. This commission will help support those workers and help in their economic recovery.

Affordable Housing around Public Transportation

Include the \$50 million capital authorization

Thanks to both the House and Senate for including a capital authorization building of affordable housing around public transportation. CHAPA respectfully requests that the Committee include the \$50 million authorization.

Neighborhood Stabilization Program

Include the \$50 million capital authorization

Thank you to the House and Senate for both including a capital authorization to support a Neighborhood Stabilization Program to help return blighted or vacant units back to productive use, including in communities disproportionately affected by COVID-19. We ask that the Committee include the \$50 million authorization.

¹⁴ S. 2874, § 96.

¹⁵ S. 2874, § 95.

Climate Resilient Affordable Housing
Include the \$10 million capital authorization

CHAPA thanks both chambers for including a \$10 million capital authorization to support sustainable and climate resilient affordable housing. We hope this is included in the final bill.

Thank you for your consideration and for your leadership in making sure everyone in the Commonwealth has a safe, healthy, and affordable home.

Sincerely,

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

Rachel Heller
Chief Executive Officer

cc: Speaker Robert DeLeo
Senate President Karen Spilka

Secretary Michael Kennealy, Executive Office of Housing & Economic
Development