



Board of Directors

June 17, 2020

**President**

Amy Schectman

The Honorable Antonio Cabral  
State House, Room 466  
Boston, MA 02133

**Vice Presidents**

Felicia Jacques

Charleen Regan

**RE: Testimony in Support of H.4854, *An Act Enabling Partnerships for Growth***

**Treasurer**

Ken Willis

Dear Chairman Cabral and Distinguished Members of the House Committee on Bonding, Capital Expenditures and State Assets,

**Clerk**

Naomi Sweitzer

On behalf of Citizens' Housing and Planning Association (CHAPA), I write to support and offer recommendations for H.4854, *An Act enabling partnerships for growth*. The bill contains important priorities that support affordable housing and community development in Massachusetts. The following letter describes those priorities within the bill. The letter also offers suggested provisions for the Committee to add to the bill in order to ensure that affordable housing and community development are part of the Commonwealth's economic development plan as we continue to recover from COVID-19.

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Citizens' Housing and Planning Association'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.

In order to further address our affordable housing shortage and inequalities in our system, CHAPA asks the Committee to add certain provisions to the Economic Development Bill. These include provisions to:

- Re-insert Housing Choice provisions to help cities and towns approve smart growth zoning and affordable housing by lowering the required vote from a two-thirds to a simple majority.<sup>1</sup>
- Temporarily expand the Massachusetts Low Income Housing Tax Credit to spur the development and preservation of affordable housing and create jobs.
- Create a pilot program to provide a right to counsel for low-income residents facing eviction because of COVID-19.
- Improve the governance of housing authorities by creating a process for tenants to be appointed to housing authority boards in towns.

H.4854 also currently contains provisions that are critical to creating and preserving affordable housing in Massachusetts, supporting our economy, and addressing economic and racial inequalities that COVID-19 has made clear. CHAPA respectfully asks the Committee to report H.4854 out with the following sections:

- Sections to help preserve the state’s public housing by allowing local housing authorities to leverage capital funds to secure additional resources for modernization projects and to allow housing authorities to retain proceeds from the sale of their property.<sup>2</sup>
- A section to build affordable housing for low- and moderate-income households around public transportation.<sup>3</sup>
- A section to create sustainable and climate resilient affordable housing for low- and moderate-income households.<sup>4</sup>

Thank you for your consideration and for helping everyone in the Commonwealth have a safe, healthy, and affordable home.

## **PROVISIONS TO ADD TO THE ECONOMIC DEVELOPMENT BILL**

### **Re-Inserting Housing Choice to Create More Affordable Housing**

CHAPA asks the Committee to re-insert the Housing Choice provisions as originally included in the Economic Development Bill as filed by Governor Baker.<sup>5</sup> These sections would enable a municipality to pass by a simple majority vote certain zoning changes that would help to advance housing production and smart growth, as opposed to the currently required super majority vote. The sections would also allow a simple majority

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<sup>1</sup> H. 4529, 191st Gen. Ct. §§ 76–84, 198–199 (Mass. 2020).

<sup>2</sup> H. 4854, 191st Gen. Ct. §§ 132, 143.

<sup>3</sup> H. 4854, § 2A (line-item 7004-0059).

<sup>4</sup> H. 4854, § 2A (line-item 7004-0064).

<sup>5</sup> *Id.*

vote to approve certain special permits for affordable housing developments around public transit or in mixed-use developments.

Passing these provisions would be a significant step towards meeting the Commonwealth's housing needs. The sections will make a substantial impact in communities working to encourage housing development and undo policies that prevent housing production and perpetuate segregation.

These provisions will empower the simple majority of people in a community to vote "Yes" for housing. It is imperative that we provide these tools to communities who are actively working to create more housing, including affordable housing, and to put smart growth policies into place.

These provisions match the Housing Choice legislation originally filed by Governor Baker and reported out favorably by the Joint Committee on Housing.<sup>6</sup> CHAPA supports the changes that the Housing Committee made when it reported out the Housing Choice legislation. Those changes were reflected in the Governor's Economic Development Bill, H.4529.

Although the Housing Choice legislation is not a standalone solution to Massachusetts' affordable housing crisis, it removes a critical barrier to creating more housing. Additional strategies will be needed to address the many challenges faced by the people of this state. We look forward to working with the Legislature to expand opportunities for people with extremely low-, low-, and moderate-incomes to have a safe, healthy, and affordable place to call home. At CHAPA, we will continue to work to pass policies that further increase access to affordable housing, prevent displacement, reduce homelessness, grow the housing stock for people across income levels, and expand opportunities for people to live in the communities they choose.

### **Expanding the Massachusetts Low Income Housing Tax Credit to Build Affordable Housing and Create Jobs**

CHAPA asks the Committee to temporarily expand the Massachusetts Low Income Housing Tax Credit (LIHTC)<sup>7</sup> to spur economic development by building more affordable housing and creating jobs. Specifically, we ask that the annual allocation for the Massachusetts LIHTC be increased by at least \$10 million for two years.

The Massachusetts LIHTC supports public-private partnerships to create affordable housing. Created in 1999, the program allows the Department of Housing and Community Development to distribute tax credits to affordable housing developers, including non-profit community development corporations. The developer then sells the tax credit to investors, such as banks and other corporations, who get a dollar-for-dollar reduction in their state tax liability in exchange for financing low-income housing.

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<sup>6</sup> H. 4263, 191st Gen. Ct. (Mass. 2020).

<sup>7</sup> M.G.L. ch. 63, § 38EE(i); M.G.L. ch. 62, § 6M(i).

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.<sup>8</sup>

Temporarily expanding the program will help ensure that affordable housing continues to be developed during the COVID-19 crisis, which is causing uncertainty in the housing market. The expansion will also spur economic development by creating good construction jobs and permanent job opportunities once affordable housing development are completed. Since the program began, it has created an estimated 14,000 construction jobs. The housing developments built with the tax credit have also supported over 4,000 ongoing employment opportunities.<sup>9</sup>

### **Creating a Right to Counsel for Low-Income Residents Facing Eviction Due to COVID-19**

CHAPA asks the Committee to add provisions to the Economic Development Bill that would create a right to counsel for low-income residents facing evictions because of COVID-19. Unless the Governor extends the statewide eviction moratorium, it will end before or on August 18. When the moratorium ends, whether by expiring or as a result of current legal challenges, courts will be flooded with eviction cases.

Landlord organizations estimate that 15,000 new evictions will be filed. Meanwhile, frontline non-profits and legal aid organizations have been flooded with calls from tenants who are unable to pay their rent and applications for emergency rental assistance have dramatically increased. Unfortunately, like COVID-19, evictions disproportionately impact minority communities. In the seven weeks between the state of emergency in March and the moratorium in April, 78% of eviction filings in the Eastern Housing Court were in communities of color.

To stay ahead of the coming eviction crisis, Massachusetts needs a comprehensive eviction prevention response that includes rental relief and assistance, building the capacity of non-profits to triage evictions before court, and legal assistance through a right to counsel pilot in areas that have been hardest hit by COVID-19. In Massachusetts more than 90% of tenants face eviction without legal representation, while 70% of landlords have lawyers, an imbalance that may be felt even more when the moratorium ends.

On June 8, Senator Sal DiDomenico filed emergency legislation to establish a statewide right to counsel pilot project to protect renters and owner occupants in areas of the Commonwealth hardest hit by COVID-19, S.2785, *An Act promoting housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency*.

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<sup>8</sup> Massachusetts Department of Housing and Community Development.

<sup>9</sup> 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).

The Right to Counsel pilot program would provide full legal representation to tenants and owner occupants in eviction proceedings whose incomes do not exceed 200% of poverty. The program would be established based on certain indicators that capture the devastation that COVID-19 has had on renters and lower income homeowners. Legal representation would be provided by designated non-profit organizations with expertise in housing law and experience representing low-income people.

Creating a Right to Counsel pilot program will help the Commonwealth's economic recovery by keeping families and neighborhoods intact, protecting tenants and owner occupants from damaged credit and the collateral consequences of eviction, and prevent massive disruption in schools and communities. CHAPA hopes that the Committee include the provisions of S.2785 in the Economic Development Bill.

### **Improving the Governance of Public Housing By Appointing Tenant Board Members**

CHAPA asks the Committee to add provisions to the Economic Development Bill that will ensure tenant participation in the governance of their housing authorities and helps local housing authorities (LHAs) in towns to operate more effectively by creating a process to appoint a resident to the tenant-designated seat on housing authority boards. Specifically, we ask that you insert language from S.2440, *An Act relative to local housing authority board member elections*, sponsored by Senator Joseph Boncore and passed by the Senate on December 19, 2020.

In 2014, public housing reforms were enacted that required housing authorities in towns to have a designated tenant seat on the board.<sup>10</sup> This matches a requirement already in place for housing authorities in cities. Unfortunately, since the public housing reforms were passed, there has been confusion and frustration among town clerks, housing authorities, and tenants, with widely varying practices and interpretations about how to implement the law. Adding the provisions from S.2440 to the Economic Development Bill would clarify the process and help public housing tenants serve on their housing authority boards.

Originally, the public housing reform law required that a fourth member of a housing authority board be a tenant elected by tenants. This original legislation presented certain conflicts with state election law and there are varying interpretations about how to implement the law.

In some communities, vacancies on housing authority boards either are not being filled or are being filled by non-tenants. In other communities, incumbent board members, some of whom are tenants, are unable to run in local elections. This has made conducting business at housing authorities difficult in some towns.

MassNAHRO, Massachusetts Union of Public Housing Tenants, CHAPA, the Department of Housing and Community Development, and the Secretary of the

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<sup>10</sup> 2014 Mass. Acts 235.

Commonwealth's office all agreed to legislation that would create a clear appointment process in towns for the tenant designated seat that would be similar to the process currently required in cities. S.2440 passed the Senate during an informal session, which reflects the broad consensus for the language and need for this bill.

CHAPA asks that the Committee add this to the Economic Development Bill to alleviate the uncertainty and confusion in towns and allow for a clear path to fill existing vacancies on housing authority boards in towns with tenants.

## **PROVISIONS TO KEEP IN THE ECONOMIC DEVELOPMENT BILL**

### **Leveraging New Resources to Local Housing Authorities**

CHAPA asks the Committee to include sections 132 and 143 in its Economic Development Bill. These sections will help preserve the state's public housing by allowing local housing authorities (LHAs) to leverage capital funds to secure additional resources for modernization projects and to allow housing authorities to retain proceeds from the sale of their property. These sections have been a shared priority of CHAPA, MassNAHRO, and Massachusetts Union of Public Housing Tenants.

Specifically, section 132 authorizes LHAs, with DHCD approval and pursuant to a DHCD-approved capital plan and regulations, to pledge a portion of their capital funds to secure debt, subject to availability under the capital plan. Because the amount of capital funds available to an LHA in any given year is often less than what is required to undertake urgent capital needs, such as roof replacement across all buildings in a given project, the ability to borrow against a stream of capital funds will allow LHAs to carry out critical projects in a timelier manner and with associated cost savings.

Section 143 allows an LHA to retain the proceeds from the disposition of its property after all bonds from the Commonwealth are paid in full. If the LHA has no more public housing after the disposition, proceeds will be paid to DHCD. In both cases, the funding will be used to address modernization and maintenance needs at state-aided public housing.

The language in these sections match H.1317 and S.785, filed this session by Representative Dave Rogers and Senator Brendan Crighton.<sup>11</sup> The Joint Committee on Housing reported the legislation out favorably. Again, these sections will help ensure that the nearly 46,000 homes provided by state-assisted public housing remain available for thousands of low-income residents in Massachusetts.

### **Building Affordable Housing Near Public Transportation**

CHAPA asks the Committee to include section 2A, line-item 7004-0059, to help create affordable housing for low- and moderate-income housing around public

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<sup>11</sup> H. 1317, 191st Gen. Ct. (Mass. 2020) (authorizing LHAs to borrow against capital funds); S. 785, 191st Gen. Ct. (Mass. 2020) (allowing LHAs to retain the proceeds from the sale of their property).

transportation. We support the important goal of building more affordable housing near transit through this program proposed by the Governor.

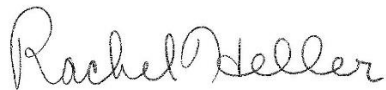
Building affordable housing around public transportation can help solve our housing shortage, address climate change, and achieve greater equity. Housing built around transit nodes, such as MBTA or commuter rail stations, can help reduce reliance on cars, which will ease congestion on our streets and lower greenhouse gas emissions. Lower-income workers living in affordable housing will also be able to access public transportation to get to their jobs, which will help create equitable transit-oriented development.

### **Creating Sustainable and Climate Resilient Affordable Housing**

CHAPA asks the Committee to include section 2A, line-item 7004-0064, to create sustainable and climate resilient affordable housing. As the dangerous consequences of climate change continue to grow, additional resources are needed to create sustainable and climate resilient affordable housing. This new program, to be managed by the Massachusetts Housing Partnership, would authorize funding to assist projects that incorporate resiliency measures, such as emergency generators, green infrastructure and electric systems. These funds would help to protect low- and moderate-income residents who are often the most vulnerable to the impacts of climate change.

Thank you for your consideration and for helping ensure that 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,



Rachel Heller  
Chief Executive Officer