



**TESTIMONY OF CLARK L. ZIEGLER, EXECUTIVE DIRECTOR
MASSACHUSETTS HOUSING PARTNERSHIP
BEFORE THE JOINT COMMITTEE ON HOUSING
ON LEGISLATION TO AMEND M.G.L. CHAPTER 40B**

February 2, 2016

Thank you for the opportunity to testify today on legislation that would amend or repeal Chapter 40B of the General Laws.

The Massachusetts Housing Partnership (MHP) was founded to help public officials and community leaders tailor local solutions to address their own housing needs. In that role we have extensive experience with Chapter 40B and we have worked with local officials to expand housing opportunities in 322 cities and towns. We have also provided professional consultants at no cost to assist 150 communities in reviewing 287 local applications for comprehensive permits.

MHP's other primary focus is providing long-term financing to help meet the state's housing needs. We have provided \$1.1 billion in financing for more than 22,000 rental housing units across the Commonwealth, three-quarters of which are affordable to low- and moderate-income families and about half of which are in smaller developments of 30 units or less. To date MHP's rental financing has reached 111 cities and towns.

From this very unique perspective I would like to offer three comments about the 40B legislation currently before your committee.

First, the need for a zoning mechanism like Chapter 40B is greater than ever. Housing costs in Massachusetts are still among the highest in the U.S. and they have increased more than any other state since 1980. Even as prices fell nationwide in the wake of the financial crisis, the housing cost gap between Massachusetts and the rest of the country grew even wider. Rents are increasing and rental vacancy rates are falling, with monthly rents in metro Boston now ranking the third highest in the United States, behind only New York City and San Francisco. That means we are at a significant disadvantage as we try to add jobs and achieve sustained economic growth.

Massachusetts has many competitive advantages – including cutting-edge industries, great hospitals and universities, and the best-educated workforce in the country – but unless we expand housing choices and reduce the cost of housing those advantages will be squandered. As I noted in previous testimony to this committee, we are already losing some of our most talented workers to other parts of the U.S. – such as Denver, Seattle and Portland, Oregon – that build more housing and offer great jobs at a lower cost of living.

Second, Chapter 40B is an effective law that works as it was intended. The law requires communities to consider affordable housing proposals on their merits without the option of just saying “no”. Because those rules are now widely understood, most comprehensive permit applications are resolved at the local level without any need for appeals. Through our community outreach MHP has helped dozens of suburban communities develop affordable housing at modest scale – often on land donated or purchased by the town for that purpose, supported by local Community Preservation Act funds, and developed by a local nonprofit. This is exactly the kind of housing that critics of Chapter 40B say they to support, yet in almost every case these friendly, locally-initiated projects would have been outlawed by local zoning and were only possible because the communities were able to issue comprehensive permits.

To be fair, local officials have raised a number of legitimate complaints over the years about the way the comprehensive permit law has been implemented. With MHP’s support those concerns have been addressed through changes to state policy. That includes deference to local land use plans that allow for development of affordable housing, critically evaluating project design against state standards before allowing a developer to apply for a comprehensive permit, allowing towns to count affordable housing units produced outside of conventional federal and state housing programs, and creating clear standards to guide local zoning boards and level the playing field. Most of the complaints you will hear about Chapter 40B are old news based on problems that occurred years ago and that have long since been addressed.

Third, most of the controversy surrounding Chapter 40B today is not really about affordable housing but instead reflects a fundamental failure of our state’s zoning and planning laws. Chapter 40B has become the zoning of last resort for developers who cannot otherwise build housing at reasonable densities under conventional, locally-adopted zoning. We are becoming the sprawl capital of the United States, with more land consumption per new unit of housing produced than almost any other state – more than double the national median. Buildable sites zoned for multifamily housing are virtually non-existent in Massachusetts.

Major reform to address this problem is now under consideration by your committee as part of the housing production bill filed by Rep. Honan, Sen. Forry and 23 other cosponsors. The centerpiece of H. 1111 is a requirement that zoning in every city and town make reasonable accommodation for the development of multifamily housing. Once we tackle the underlying cause of our housing supply problem we will eliminate much of the controversy surrounding Chapter 40B.

New housing development will never win a popularity contest in most of our cities and towns, but that is not the standard by which we should make decisions affecting the future of the Commonwealth. We will continue to fall far short of our economic potential if we keep obstructing the housing that is needed to encourage young, educated workers to live in Massachusetts and to encourage employers to locate and expand here. For that reason, MHP strongly urges the committee to reject any legislation that would modify Chapter 40B and instead to approve a strong housing production bill and make it a top legislative priority.