



**TESTIMONY OF CLARK L. ZIEGLER, EXECUTIVE DIRECTOR MASSACHUSETTS HOUSING PARTNERSHIP BEFORE THE JOINT COMMITTEE ON HOUSING ON LEGISLATION REGARDING AN ACT KNOWN AS THE AFFORDABLE HOMES ACT, HB4138**

**January 18, 2024**

Thank you for the opportunity to testify on the Affordable Homes Act, HB4138. My name is Clark Ziegler and I am the Executive Director of the Massachusetts Housing Partnership (MHP).

As you know, MHP was founded to help local public officials and community leaders tailor solutions to address their own housing needs. In that role we have worked with local officials and advocates to expand housing opportunities in more than 335 cities and towns and our annual Massachusetts Housing Institute has provided training to more than a thousand municipal officials. We have pioneered many of the tools used by local officials to produce affordable housing through the Community Preservation Act and municipal affordable housing trusts. We have also played a key role in making the state housing finance system more responsive to local priorities and concerns.

Housing bond legislation is of particular importance to MHP as we play a major role in financing projects supported by the state capital budget. We have provided \$1.9 billion in financing for over 30,000 rental housing units across the Commonwealth. We also established the ONE Mortgage program (formerly known as SoftSecond), which since 1991 has provided \$4.8 billion in below-market bank financing and made it possible for 25,000 low- and moderate-income families in Massachusetts to purchase their first home.

Our unique position of supporting municipalities and offering financing solutions has also allowed us to be responsive to emerging needs. We created the ONE+Boston program in partnership with the City of Boston and the Massachusetts Affordable Housing Alliance (MAHA) as an enhanced version of MHP's ONE Mortgage, to further increase the homebuying power of Boston residents. And our MassDREAMS program is part of a state effort to increase homeownership opportunities by providing federal American Rescue Plan Act (ARPA) funds in the form of down-payment assistance to first-time homebuyers who reside in communities that were disproportionately impacted by the COVID-19 pandemic.

Since 2021, we have worked with the Baker-Polito Administration and now the Healey-Driscoll Administration to help communities comply with Section 3A of MGL c. 40A, or the Multi-Family Zoning for MBTA Communities Law. MHP has developed the 3A-TA program which provides broad support to MBTA Communities, including direct technical assistance, trainings and webinars, websites and data tools, and strategic help with community engagement, among other related activities. To date MHP has provided funding for technical assistance to 115 MBTA communities.

At MHP we are extremely proud of what we have accomplished in partnership with cities, towns, and state government to expand the availability of housing – but we know that it is not nearly enough.

The Affordable Homes Act is a bold proposal that meets the moment. The past few years have brought enormous challenges including an ongoing pandemic, rapidly changing economic conditions, worsening inequality, and growing sociopolitical rifts. But the past few years have also brought innovation and a renewed focus on the role of housing and community in our lives. There is a growing awareness of how housing intersects with many other issues we care about, including racial equity, economic justice, transportation policy and climate change. The Commonwealth's future depends on our ability to ensure housing opportunity for all our residents. The Affordable Homes Act responds to these realities with the scale of funding and breadth of policies needed to have a lasting impact.

The bill would enhance existing successful programs and launch several new ones to help achieve our goals, including closing the racial homeownership gap, making housing more energy efficient and shifting housing production to walkable, transit-rich neighborhoods. The bill would also boost funding for the renovation and redevelopment of public housing and expand the new HousingWorks infrastructure program that was embedded into the state's housing secretariat, among other major steps forward.

Over the past few decades, there has been an unfortunate shift in Massachusetts, taking our housing and affordability challenges from bad to worse. We have allowed one barrier after another to prevent new housing production. Lack of adequate housing supply and competition for an inadequate number of housing units has driven up our home prices and rents, caused tens of thousands to leave our state, and has harmed low-income people and people of color the most. It is the people of Massachusetts that drive our thriving, knowledge-based economy and provide the services we need for an outstanding quality of life. Massachusetts must get its housing costs under control or risk losing our most valuable asset: our people.

To realize our state's potential, we need to do three things in a big way: eliminate obstacles to new housing production, reduce the cost of development, and provide significant subsidies to support more affordable housing.

Massachusetts has much to gain from an abundant and affordable housing supply and the Affordable Homes Act provides a way forward. In that spirit, I offer several comments about the legislation before you, including the importance of certain specific components proposed and some additions we believe would strengthen its impact even further.

### **Authorization of accessory dwelling units (ADUs) by-right**

Accessory dwelling units are an effective way to increase housing supply without fundamentally changing the look and feel of existing single-family neighborhoods. An MHP survey for the 2019 Greater Boston Housing Report Card found that ADUs are allowed in some form in 108 Greater Boston cities and towns, but in practice these bylaws and ordinances have resulted in relatively little housing production. That often reflects the cost and difficulty of obtaining a special permit, which invites neighborhood opposition, or burdensome requirements that ADUs must be occupied by a family member and kitchens removed if those occupancy requirements are not met. Allowing ADUs by right will unlock the potential for this necessary housing option across the state.

Studies of ADU programs in other states show that removing barriers to the creation of ADUs has a real impact on production. A recent [Joint Center for Housing Studies report](#) finds that in California, for example, ADU permits issued statewide increased from around 1,200 annually to over 24,000 annually following the passage of statewide legislation allowing their permitting by right. This represents roughly 18 percent of new housing units built in California in 2022.

We urge the legislature to retain, if not strengthen, the provisions in the bill requiring that ADUs be allowed by-right in every municipality in Massachusetts, including limitations on parking and owner-occupancy requirements. The governor got it right by allowing some flexibility for cities and towns while building in guardrails to ensure that the purposes of the law are achieved. The new law will only be effective if it maintains that balance and does not allow any city or town to effectively opt out.

### **State surplus property disposition**

One of the biggest barriers to our ability to create more affordable housing is a lack of available land at a reasonable price. Given the severity of the gap in affordability, every government-controlled site should be evaluated and reviewed to determine whether housing would be suitable and feasible. By building up an inventory of state surplus land, particularly parcels in walkable, transit-rich, and amenity-rich neighborhoods, and offering parcels at a low cost, we can offer increased opportunities for the development of affordable housing. We urge the legislature to prioritize the disposition of state surplus land in its efforts and support the administration and state agencies in turning feasible sites into much needed new housing.

### **Additional funds for first-time homeownership**

While the Affordable Homes Act includes significant funding for new housing production and supports for Massachusetts residents, we believe that an increase in the amount of funding dedicated to first-time homebuyer efforts from the proposed level of \$50 million to \$150 million would have significant positive impacts. Increasing the opportunity for first-time homebuyers to purchase in Massachusetts should be a high priority for the Commonwealth, and these funds can assist us in closing the racial wealth gap.

At MHP, we have successfully administered the ONE mortgage program for over 30 years and have assisted more than 25,000 residents in becoming first-time homebuyers by providing low down-payment, fixed-interest mortgages with no Private Mortgage Insurance (PMI) and financial assistance for eligible low- and moderate-income buyers. Our ONE+Boston program builds on this success by combining City of Boston funds with the affordable features of ONE Mortgage to increase the buying power for income-eligible, first-time Boston homebuyers purchasing a home within the City. MassDREAMS provides eligible first-time homebuyers who currently reside in one of 29 disproportionately impacted communities with up to \$50,000 in down payment and closing cost assistance for the purchase of a primary residence anywhere in the Commonwealth.

The track record of these programs in creating more first-time homebuyer opportunities and closing the racial wealth gap speaks for itself. In FY23, households of color made up 69 percent of those receiving a ONE mortgage statewide, 68 percent in Boston, and 85 percent in Gateway Cities. Households earning below 80 percent of the area median income (AMI) made up 56

percent of borrowers statewide, 62 percent in Boston, and 47 percent in Gateway Cities. MHP's MassDREAMS program is similarly reaching households of color and low- and moderate-income (LMI) households, serving 76 percent households of color and 65 percent LMI statewide, and 84 percent households of color and 60 percent LMI in Gateway Cities. And the ONE+Boston program served 68 percent households of color and 67 percent households earning below 80 percent AMI. MHP and our lending partners have a strong track record and plan to invest these funds directly into programs to support racial equity and increase homeownership in Massachusetts and urge the legislature to support an increase to sustain and expand this important work.

### **Additional funds for climate-ready housing and transit-oriented development**

Massachusetts faces a mounting challenge across the nexus of three big issues: housing, transportation, and climate change. By building sustainable, climate-ready, and resilient housing in walkable, transit-rich, and amenity-rich neighborhoods, we can address our housing supply and affordability gap, looming climate change impacts, and a need for decreased automobile dependency. We must continue to prioritize housing development, both market-rate and affordable, in areas that achieve this vision.

With the ongoing implementation of the MBTA Communities law, 177 cities and towns in Eastern Massachusetts will be unlocking new parcels for development, with a capacity for close to 300,000 housing units. We must be ready to meet this new opportunity with funds to prioritize and build the climate-friendly housing we need near transit and village and town centers. In the past 2-1/2 years, MHP has provided nearly \$40 million to this type of housing through the state-funded Transit-Oriented Development program, but we know it is not nearly enough to meet the demand and opportunity. We urge the legislature to increase the amount of funds allocated to this program to \$100 million to allow for the creation of thriving neighborhoods that are rich in jobs, transit, and housing accessible to all. We also know that housing plays [a significant role in our climate crisis](#): buildings in Massachusetts account for roughly 35 percent of our state's greenhouse gas emissions, with residential buildings making up half of that. In a state with predominantly older housing stock, retrofitting existing housing is a critical part of addressing climate change. Through the state's Climate Ready Housing program, jointly administered by MHP and MassHousing, we have allocated first-of-its-kind pilot funding for deep energy retrofits of multifamily affordable housing, demonstrating successful approaches for reducing carbon emissions and prioritizing cost-effective strategies. We support the continued funding of this program at \$115 million to keep the state's climate goals on track and ensure that decarbonization efforts reach the state's low-income renter households.

### **Mandate eviction data from trial courts and support for eviction sealing**

A provision not included in the current version of the Affordable Homes Act, but important nonetheless, is the need for publicly available eviction data. After several years of an unending pandemic, fluctuating unemployment rates, wavering legal protections, changes to housing support programs, and ever-growing rents and home prices, trends in eviction rates in the Commonwealth deserve regular attention.

The primary source for eviction data is the Massachusetts Trial Court. The court makes data available through an [online portal](#) that allows users to search and view the details of each

eviction filing received by the court. Search results include some high-level information; however, key pieces of information are buried within individual records and cannot be exported in bulk, including the status and outcome of the case, any hearing dates or details about the process, the property address, the judge assigned to the case, and other useful pieces of information.

Keeping track of trends in housing stability for renters will allow the Commonwealth to be more proactive and responsive to increases in eviction filings or changes in concentrations. We urge the legislature to include a provision to mandate the trial court to provide a more comprehensive set of information to the public via their search tool or other online dashboards.

This need for data should be balanced with the very important goal of eviction sealing, which protects the identity of tenants facing eviction, and would keep an eviction action from harming their future housing searches. Eviction sealing is an important measure that will protect tenants' past eviction-related experience from being discovered by a prospective landlord.

### **Lower threshold for adoption of inclusionary zoning**

The Housing Choice legislation made several amendments to Chapter 40A to reduce the voting threshold for certain zoning ordinances from a two-thirds supermajority to a simple majority. Many communities are looking to expand their housing production but want to ensure affordable housing is a component of this new growth. Inclusionary zoning can be an effective tool to achieve this goal and communities who want to explore this option should be able to do so without the higher supermajority threshold. Guidance and oversight to be provided by the Executive Office of Housing and Livable Communities will ensure that any provisions adopted locally do not constrain housing production overall.

### **Commission on Unlocking Housing Production**

MHP is pleased to see the creation of the Unlocking Housing Production Commission by executive order, in conjunction with the filing of the Affordable Homes Act, to help identify ways to streamline housing production and expand the supply of housing. There are several issues not addressed in the Affordable Homes Act, which if not dealt with sufficiently and in a timely manner, will impede our ability to make real progress in meeting our housing needs. These deserve careful consideration by the commission, and we urge the legislature to continue to push for reforms and regulations that emerge from their work. These areas of particular importance include: a review of local environmental regulations that exceed state standards such as Title 5 and the Wetlands Protection Act, onerous off-street parking requirements, persistent restrictions on multi-family zoning in municipalities across the Commonwealth (particularly outside of MBTA communities), state wastewater regulations that impede production such as wastewater treatment for moderate-scale multi-family housing development and state approval of municipal wastewater treatment expansion, improved judicial review of frivolous abutter appeals of permits for new housing, exploration of off-site modular construction to bring housing production to scale, and coordination of state policy through an Office of State Planning or an equivalent interagency mechanism. MHP's [Building Momentum report highlights](#) the need and opportunities in many of these areas and we look forward to seeing similar recommendations developed and advanced by the Unlocking Housing Production Commission.



### **Sustainable & Green Housing Initiative and the need to rein in housing construction costs**

New housing is only feasible if developers can make enough in rent or sales proceeds to make a reasonable rate of return above their cost. With higher construction costs there are fewer potential buyers or renters who can afford new housing at that price point, and there is no economic rationale for developers to build any more. Data from RS Means, a national construction data tracking service, shows that multifamily housing construction costs in Massachusetts are 20 percent above the national average, which limits the potential for private housing development to meet demand. A recent [Boston Globe Spotlight report](#) highlights the high cost of construction in Greater Boston and notes that a variety of factors contribute, including construction materials, labor costs, permitting delays, excessive parking, and energy efficiency building codes. Excessive development costs are also a concern for the state's affordable housing delivery system, since public resources are limited, unmet needs for affordable housing are immense, and money saved through lower costs can be used to produce additional housing.

Without achieving reductions in construction costs there will be a significantly larger gap between the supply and demand for housing in the Commonwealth, more pressure on tax credits and other housing development subsidy programs to fill that gap, and less production of affordable housing overall. We should acknowledge that some housing production strategies are more cost effective than others and prioritize resources towards those strategies that create the most new housing, with the greatest level of carbon reduction, and at the lowest cost. The Sustainable and Green Housing Initiative provides an opportunity to explore innovative strategies such as off-site or modular construction and address funding constraints that may impede lower housing cost delivery systems.

### **Seasonal communities**

Seasonal communities face specific challenges in their housing needs, with seasonal variations in employment and tourism, and the added challenge of accommodating many second-home property owners in some communities. Creation of a new Seasonal Communities Coordinating Council is an important opportunity to identify the unique characteristics that define a seasonal community, illuminate their specific housing challenges, and the regulations, policies and funding opportunities that will best serve them as they work to meet their needs. It is a critical first step in ensuring that seasonal communities remain a place where both year-round residents and employees of all incomes and those working and visiting communities seasonally can meet their housing needs, equitably and with an eye towards sustainable development.

While the housing challenge is enormous, when given the opportunity and resources our Commonwealth has shown that we can meet the moment. Housing is the smartest investment we can make to create a foundation for growth, economic vitality, quality of life and stability for all our residents. I appreciate your consideration of these comments, urge the committee to favorably report a bill in the very near future, and would be happy to answer any questions.

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