

# A Housing Tradeoff That We Can't Afford

## Amendment Could Set Dangerous Precedent

BY SUSAN GITTELMAN  
 SPECIAL TO BANKER & TRADESMAN

**T**he Commonwealth's 40B affordable housing law is not only valuable – it's essential. This law has created critically needed housing that our economy and our population depend on. A surprising recent challenge has the potential to gut a law that has had a profoundly positive impact on our state – a law that voters across the state voted resoundingly to preserve intact in 2010.

Earlier in our region's history, all housing was made available through the private market. But as income disparities widened, the supply of housing available to low and moderate income people fell behind. So the Commonwealth, following up on housing laws from the 1930s, enacted a law called Chapter 40B that encouraged development of fair and affordable housing. Passed in 1969, the Chapter 40B law was necessary because housing in the region had become so costly that even those of average incomes were often priced out.

The law provided a framework for developers to build affordable housing in communities with none or with negligible amounts. Although it has sometimes provoked local controversy, especially in communities that are wary of growth of any kind, the Chapter 40B law has been considered a success, creating thousands of units of modest cost housing that would not otherwise be available.

Since its adoption there have been a number of revisions to Chapter 40B that have enhanced it — including more accountability for developers and additional regulatory and financial controls. Over time, additional state legislation has been implemented to give power and incentives to all local municipalities to be able to proactively plan for their own growth, including in the affordable housing realm.

### Norwood Lags

Something troubling happened this summer in Norwood, with the potential to put all of this type of housing at risk. A developer, unable during the recession to complete a commercial development as planned, proposed instead to build a Chapter 40B permitted development of 296 mixed-income, residential apartments. Notably, Norwood lags significantly against the statewide goal that at least 10 percent of each community's housing should meet the affordability standard. Its percentage is at 5.7 percent, or just over half of the goal.

In this case, the developer had once applied to be eligible for a certain kind of tax program known as TIF, or tax increment financing, to spur economic development. TIF fosters development by allowing the community and the developer to allocate new revenue associated with the development for a defined period, such that the developer can invest its share to develop necessary infrastructure like sewer systems.

No TIF was utilized at the Norwood site – because no commercial development materialized. However, legislators supporting opponents of the newly proposed Chapter 40B housing, seized on the idea that any site that had TIF designation should be prohibited from having affordable housing permitted under Chapter 40B within that site. Although there was no correlation made between the Chapter 40B and TIF, such language was recently added as an amendment to a housing bond bill, and as of now similarly worded amendments have passed in the state Senate and House.

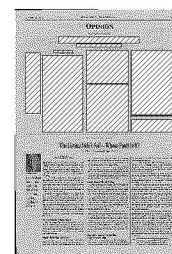
It is ironic that a good program for economic development like TIF, would be employed as a rationale for torpedoing another excellent program, like Chapter 40B for affordable housing. The former could logically provide jobs, and the latter could provide housing, for the very same residents. Both are good for the community.

The mission of our organization is to create more affordable housing in Massachusetts. We undertake developments that utilize Chapter 40B permitting, as do other high quality developers who are committed to growing the number of homes for working families, individuals and seniors.

"A dangerous precedent is that developers – who already have lots of reasons not to develop in Massachusetts, including cost, risk, abutters' lawsuits – could now go through all the hurdles and do everything right, but if a state legislator doesn't like it, he or she can seek a last minute amendment to unrelated legislation and kill the project. Once this is done for Norwood, other towns will seek the same remedy," said Joe Kriesberg, President of the Mass. Association of Community Development Corporations.

For those like us who undertake development using Chapter 40B, and for all of us across the state who are advocates for workforce and affordable housing, this is a troubling matter.

We hope that this provision in the bill doesn't become law, or if it does that it will be reconsid-



ered in the very near future. ■

*Susan Gittelman is executive director of B'nai B'rith Housing, a nonprofit, nonsectarian developer and operator of affordable and mixed-income housing serving families and elders in communities of Greater Boston. BBH is currently working on developments in Sudbury and Sharon.*



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