



**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**

December 19, 2017

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

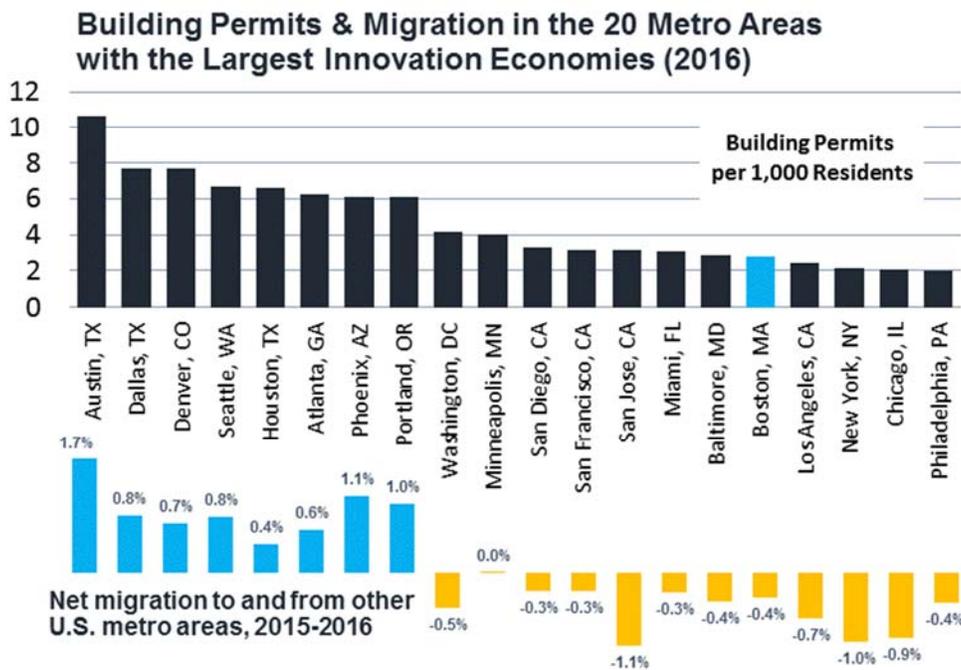
The Massachusetts Housing Partnership (MHP) was founded to help public officials and community leaders tailor local solutions to address their own housing needs. In that role we have extensive experience with Chapter 40B and we have worked with local officials to expand housing opportunities in 325 cities and towns. We have also provided professional consultants at no cost to assist 205 communities in reviewing 322 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 \$1.2 billion in financing for 23,700 rental housing units across the Commonwealth, three-quarters of which are affordable to low- and moderate-income families and nearly half of which are in smaller developments of 30 units or less. To date MHP's rental financing has reached 116 cities and towns.

From this unique perspective I would like to make three observations 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 have increased more than any other state since 1980. Rents are increasing and rental vacancy rates are falling, with monthly rents in metro Boston now the fourth highest in the United States, behind only San Francisco, New York and Los Angeles. 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.



Source: U.S. Census Bureau, 2016 Building Permits Survey and 2016 Population Estimates

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”. Most communities now understand the rules and, as a result, most comprehensive permit applications are resolved at the local level without any need for appeals.

The need for 40B is never more apparent than when communities are trying to develop affordable housing on their own initiative. MHP has helped more than 40 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 or housing trust funds, and developed by a local nonprofit. This is exactly the kind of housing that critics of 40B say they support, yet in almost every case these friendly, locally-initiated projects were prohibited by local zoning and were only possible because the communities were able to issue comprehensive permits utilizing Chapter 40B.

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 – and continue to be addressed -- through improvements in state policy. Those changes includes deference to local zoning where it provides a reasonable alternative to 40B, rigorous design review before a proposed development is eligible for a comprehensive permit, counting affordable housing units produced outside of conventional federal and state housing programs, and state recognition of guidelines for local zoning boards that were developed and published by MHP to help level the playing field.

While we should always strive to improve how the law is administered, 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.

The Joint Committee on Housing has made major strides over the last two years in addressing the state's underlying housing supply problem. H. 3845, which was favorably reported by the committee in July and approved by the committee in similar form last year, would take a number of steps to increase private sector housing production including a requirement that zoning in every city and town make reasonable accommodation for the development of multifamily housing.

Just last week Governor Baker introduced new legislation, H. 4075, that would reduce the required margin of vote at town meeting or at a city or town council from two-thirds to a simple majority for any one of eight specific zoning changes that promote new housing construction and smart growth. The governor's bill would facilitate many of the same local practices long championed by this committee, including adoption of multifamily and mixed-use zoning districts, allowing accessory dwelling units as of right, increasing density of single family homes and encouraging cluster development of new homes on smaller lots.

There's an important political lesson behind these two bills: once we tackle the underlying causes of our housing supply problem we will eliminate much of the controversy surrounding Chapter 40B.

New housing development will never be universally popular, 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, to continue advocating for House and Senate approval of H. 3845, and to give the governor's new Housing Choice bill a hearing and favorable recommendation as early as possible next year.