



**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 3, 2019

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 210 communities in reviewing 349 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 \$1.6 billion in financing for more than 27,000 rental housing units across the Commonwealth, seventy percent 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 122 cities and towns.

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

First, the need for a zoning mechanism like Chapter 40B is greater than ever. Massachusetts produces less housing per capita than most other states and, as a result, our housing costs are among the highest in the U.S. The cost of buying a home has increased more than any other state since 1980 and median rents in metro Boston are now even higher than in New York City. The cost of housing puts our state at a significant disadvantage as we try to add jobs and sustain our recent economic growth.

Massachusetts has many competitive advantages, including an innovation-based economy, great hospitals and universities, and the best-educated workforce in the country. Unless we expand housing choices and reduce the cost of housing those advantages will be squandered. As I have noted many times in testimony before this committee, we are already losing some of our most talented workers to other parts of the U.S. – such as Austin, Raleigh-Durham and Denver – 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”. Most communities 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.

In fairness, local officials have made some legitimate complaints over the years about the way the comprehensive permit law was being implemented. With MHP’s support most of 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 to apply for a comprehensive permit, allowing towns to count affordable housing units produced outside of conventional federal and state housing subsidy programs, and formal guidance for local zoning boards that was developed by MHP to help level the playing field between communities and developers.

Third, it would accomplish nothing whatsoever for the Commonwealth to give cities and towns new exemptions from Chapter 40B. It would result in less housing being produced at a time when we desperately need more. It would increase pressure on the cost of buying a home or renting an apartment at a time when we need to be bringing those costs down. It would risk turning housing into a shell game where cities and towns try to game the system and shift responsibility to “someone else” or “someplace else” without doing their share to address the chronic shortage of affordable housing in our Commonwealth.

In recent years the Joint Committee on Housing has been a leader in addressing the state's housing supply and affordability problem. Last year the committee favorably reported the governor's Housing Choice bill, which 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. The Housing Committee went even further last year when it favorably reported legislation filed by the House and Senate chairs to further promote private sector housing production, including a requirement that zoning in every city and town make reasonable accommodation for the development of multifamily housing.

There's a strong political rationale behind these efforts: once we tackle the underlying causes of our housing supply problem -- starting with the Housing Choice bill -- we will eliminate much of the controversy surrounding Chapter 40B.

New housing development won't always win a popularity contest, but that's not how 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 to favorably report the governor's Housing Choice bill without further delay.