



March 30, 2022

RE: Draft Guideline for multi-family zoning for MBTA communities

The South Shore Chamber of Commerce would like to comment on the proposed MBTA housing regulations.

As background, for the past four years the Chamber has been actively promoting more housing options, especially multi-family housing. We see this as a critical strategy for regional economic growth. We were early and active proponents of the Housing Choice law. Our support for housing is only partly based on the goal of simply producing more options with different types of housing. For suburbs, that often means more multi-family housing. Equally important for us is how housing can support community development. That means where the multi-family housing goes is as important as producing more of it.

The MBTA housing law tries to link two related but separate policy goals. The first is a pure housing goal to create more supply of multi-family housing. The second is a transportation goal to create closer proximity to transit stops connecting workers and jobs. The linking of the two makes an assumption about the future economy and transportation patterns. It assumes all mass-transit in a metropolitan region will always be the transportation of a suburban workforce to urban jobs. The state should not ignore the potential for stronger reverse commuting in the future. That could mean new interest in preserving commercial development zones near transit stops.

The regulations should offer more flexibility on density and location.

a) Location

The state should broaden the scope of exemptions to reflect legitimate community and state goals. The regulations offer complete freedom for “adjacent communities” to designate their housing zone. These will almost always be more than ½ mile from a MBTA stop. Host communities are also given broad flexibility on location, with DHCD approved exemptions, if there are legitimate limits in developable space. Other legitimate goals might include wanting to focus multi-family in another area to promote greater mixed-uses or trying to focus some commercial development closer to transit.

b) Density

The density requirement uses two different measurements. The first is 750 units or 15 homes per acre (set by statute) in a geographic zone of at least 50 acres (set by regulation). The second is a percentage of total housing currently in the municipality, also set by regulation. The regulations require the greater of the two numbers. It should be lower of the two numbers.

A MBTA stop in a small community is obviously drawing from a much broader population than residents of that community. Serving as the collection point for commuters from surrounding towns should not trigger development density that would be out of line with the rest of the town. Presumably the principal of shared burden is behind the requirement that adjacent communities with no direct T assets allow more multi-family housing. Shared burden is the flip side of protecting another community from a disproportionate burden. Forced density out of line with the rest of the town is an unfair burden to place on a town simply because it was most convenient location for transportation services.

For larger communities with T assets there is a double challenge. At least half of the development zone needs to be within ½ mile of the stop and the minimum threshold might be higher than 750 homes. The density requirement in those cases may be disproportionate to the surrounding area or again contrary to some other municipal development goals.

The proposed regulation of “greater than” the two numbers illustrate the difficulty in promoting a housing goal through a transportation goal. It’s requiring a percentage of a community’s total housing stock be multi-family but then requires that it be concentrated in one section of the community.

The statute and regulations need more allowance for other municipal development goals.

The state should allow waivers or “credits” for municipalities that are legitimately incorporating multi-family into their local development plans. During presentations of the draft regulations, we often heard that this is about zoning to theoretically reach some target goals even if actual production does not come close to those goals. We think it is more important to see actual production that fits development plans for the community and region.

The MBTA housing law may be a useful tool in towns that have plenty of opportunity but face unreasonable vocal opposition to anything and everything. We can identify two or three communities that have faced that problem over housing. Those opponents invite strong state action like the MBTA housing law to provide some balance that is not visible (or audible) locally.

Other communities have embraced the importance of housing and have taken positive actions, including better zoning and improving the planning process. The new regulations could interfere with solid local planning by forcing multi-family zoning near transit in every community with a T asset, whether or not it is ever built. That could simultaneously reduce local support for multi-family in other areas.

The state should re-think the withholding of some state economic development grants from communities that do not comply. We understand the link, but we don’t think it will work well for other state or regional goals. It is possible that some communities that do not comply are some of the same communities that the state will need to help with infrastructure and community assistance to support regional growth. Many municipalities are starved of professional resources to plan and manage. Most have a strong core of top layer administrators but shallow depth behind them. This makes it difficult for many communities to do the type of planning and community development that allow new growth. They need more help, not less. It will be too easy to simply forego assistance they may not be using now rather than comply with housing density mandates.

The state should look to some other efforts to encourage compliance.

As alternatives to cutting assistance the state should look at other approaches to encourage compliance.

- a) Give more assistance to communities that comply or weight compliance as a factor in grants rather than threatening to forever withhold from communities that have trouble complying.
- b) The state should double its efforts with collaborating with each town on a suitable plan, rather than simply accepting/rejecting each town's plan. Many towns will face challenges beyond zoning in creating successful multi-family districts. Many will need more technical assistance and state resources around infrastructure to achieve housing production. There needs to be some burden on the state to work with each individual community on developing good plans. That would likely move the deadlines for filing plans back but that would appropriately be a burden on the state to respond to the towns.
- c) Create some alternative acceptance methods of a local plan. Some towns will be caught between reasonable local officials and unyielding town meeting calendars and opponents to get something approved. Housing Choice helps overcome a minority faction from blocking zoning changes. Perhaps that is enough to move a plan through town meetings. If not, the legislature may want to look at options such as approval by the town's selectman or mayors until town meeting adopts a different, but qualifying, plan.
- d) Allow some trade-off between "as of right" zoning and streamlined permitting. Many towns have some concern with "as of right" zoning. We recognize the corrosive effect and unnecessary expense added to high housing costs that comes from local permitting that is sometimes abused. This abuse, intended to make a project economically untenable or to placate vocal residents, invites strong state action. We have heard from responsible town officials though that "as of right" may also allow unreasonable developers who do not care about community impacts to develop without reasonable regard to real interests that protect a town and other property owners that may have responsible development plans.

The state should look at options that retain special permit or approval provided a community allows streamlined permitting to remove the wasted time and costs incurred with reviewing and permitting a project. The state's community compact program is an example of a softer approach that allows local choices and has helped move development over the past few years.

The Chamber wants to emphasize the real challenge in the suburbs to plan around infrastructure.

This law presents an interesting irony. The law targets housing production around transportation infrastructure. The Chamber supports that. But we also recognize the suburban challenges of water management around development and do not think the law/regulations gives enough recognition to that problem.

Our recent Side Readiness study on water resources shows that non-MWRA communities may be facing real problems with maintaining high quality water supplies. This needs to be addressed beyond town-by-town solutions. The state must step up. It is reasonable to propose that where the state has built mass-transit there should be housing. But there cannot be housing if there is no water or wastewater. That is largely another issue for another day. The draft housing regulations, however, need to recognize the problem today is real and it won't be enough simply to permit zoning as of right in an area that cannot support it without water or wastewater capacity.

Looking to future housing initiatives it is worth emphasizing the key element of the MBTA housing law may not be transit oriented housing. The greater impact may be introducing the minimum density formula for multi-family housing, regardless of MBTA service levels. The suburbs should step up, and in some cases have, to provide a good mix of housing options. Most suburban communities can and should do more to diversify the housing options and housing products from traditional large lot single family homes. This includes multi-family, mixed uses, small lot developments and other products.

Perhaps the closest model has been the 40B law focusing on costs or affordability. Total housing supply and range of choices may be as important to the economy. Our municipalities, and the state, have a long way to go. The minimum density concept opens a conversation about rethinking other strategies like 40B to drive more production rather than marginal costs subsidy. Obviously, this goes well beyond the MBTA housing bill and is a discussion for the future, but the proposal invites the conversation.

While we have concerns about how the draft regulations might work, the South Shore Chamber remains committed to promoting more multi-family housing in the area. We will be pleased to work with the state and any other stakeholders in promoting housing, or even compliance with the final regulations, in ways that promote broader community development and regional economic growth.

Sincerely,



Peter Forman
President and CEO