

Affordable Housing Study Reports

7. Local Options for Building Affordable Housing

While the League’s study of affordable housing focused on the effectiveness of the major state affordable housing laws and programs, there are also local mechanisms that Bay State communities can use to build affordable housing. Many cities and towns in Massachusetts are now addressing the need for affordable housing by cooperating with developers in the Local Initiative Program, by establishing local inclusionary zoning that creates affordable housing units at the same time that new market-rate homes are created, or by adopting the Community Preservation Act, a state opt-in statute.

Local Initiative Program

Often referred to as a “friendly” 40B, the Local Initiative Program (LIP) is a state housing program authorized by state regulation in 1990 and administered by the Department of Housing and Community Development.

LIP gives cities and towns more flexibility in their efforts to provide low- and moderate-income housing and allows developers to count state technical assistance as a subsidy in order to qualify for the program. It also provides technical assistance to communities.

LIPs support two types of housing developments:

- Local Initiative Projects (40B), which are developed through the comprehensive permit process.
- Local Action Units, which are developed through a city/town’s zoning or permit issuance process.

LIPs differ from 40B projects in two ways. First, they must be submitted to and accepted by the local governing authority (the city council in cities and the board of selectmen in towns), not just submitted to the Zoning Board of Appeals.

Second, agreements are negotiated between the developer and local planning agencies. With 40B projects, the developer need not negotiate with municipal boards.

According to DHCD, LIP units like those that are built under Chapter 40B “must serve households below 80% of the area median income; the units must be subject to use restrictions to ensure that they remain in a community’s affordable housing stock, and must be sold or rented on a fair and open basis.” Between 1990 and 2006, 318 LIP projects were approved, creating 10,574 housing units, of which 2,894 are affordable.

There are a number of concerns about LIPs, however. They have produced a limited number of affordable housing units so far. Because they depend heavily on approval by local officials, the approval process can be cumbersome. There have also been fewer of these projects in recent years.

Inclusionary Zoning

Inclusionary zoning are local bylaws based on the principle that some percentage of new housing created in a community is required by municipal bylaws to be affordable. Bylaws in different communities vary along several parameters.

Typically the bylaws require that when a residential subdivision of a given size is built, a speci-

fied percentage of the new housing must be affordable. For example, Belmont requires that all developments of six units or more must be 25% affordable, while Wellesley requires that all developments of four units or more must be 20% affordable. Newton sets the threshold at one new housing unit, and requires a monetary contribution (which goes into an affordable housing fund) based on the square footage of housing built.

Some bylaws use the state definition of “affordable,” that is, affordable to a family making up to 80% of the area median income (AMI). (AMI applies to regions, such as the greater Boston area, and is defined annually by the federal Department of Housing and Urban Development (HUD).) Housing units at this level qualify toward the state statutory requirement that each community must have at least ten percent of its housing affordable or be subject to “unfriendly” developments under Chapter 40B. Inclusionary bylaws in some communities are broader, including moderate housing affordable to families making 100% of the AMI or more. These units provide moderate housing that is genuinely needed, but does not count toward the state’s ten percent requirement.

Because affordable units are not as profitable to a developer as market rate units are, some inclusionary bylaws provide cash incentives to the developer, or allow the developer to build more units than the community’s zoning would ordinarily permit in order to make up the difference.

While Newton and Brookline, for example, have had their inclusionary bylaws in place for a number of years, and have added substantially to their affordable housing inventory, many other inclusionary statutes are relatively recent and have not yet established a track record. In communities that have adopted the Community Preservation Act, there is the possibility of using cash incentives from community preservation funds in combination with inclusionary bylaw requirements.

Community Preservation Act

The CPA, a state enabling statute passed in 2000, offers cities and towns the option of establishing a dedicated source of financing for community preservation projects. The Act defines these projects as:

- the acquisition and preservation of open space
- the acquisition, preservation, rehabilitation and restoration of historic resources
- the creation, preservation and support of community (affordable) housing
- the creation and preservation of recreational land and facilities.

The Act requires communities to vote to add a surcharge of up to 3% to their property taxes. To date, 127 of the Commonwealth’s 351 cities and towns have voted to increase their property taxes in order to support the goals of the CPA.

The Act also created a state fund to be used exclusively to match the funds raised by the surcharge in each community. For those communities that adopted the CPA early, the state match has been 100%. As more communities opt in, the state matching funds available to each community may decrease.

The CPA requires that at least 10% of the surcharge and matching funds a community receives each year be allocated to affordable housing projects, as well as 10% to open space and 10% to historical preservation. The remaining 70% of the funds can be allocated to these purposes and for recreation projects as the community sees fit. Money can be banked from year to year, so that communities can accumulate larger amounts for substantial projects.

Each community that has adopted the CPA must appoint a Community Preservation Committee to evaluate potential projects and submit those it finds appropriate to the community’s legislative

body for approval. (In towns, the legislative body is the town meeting; in cities, the legislative body is generally a city council or board of aldermen.) Typically, this pool of money allows communities to undertake projects that their budgets have not previously been able to cover.

Often supplementing other sources of funding, cities and towns have used CPA funds in a variety of ways to increase the availability of affordable housing in their communities. A few examples:

- Acton purchased two condominium units to be maintained affordable through deed restrictions.
- Chatham hired a consultant to search for town land desirable for affordable housing.
- Lincoln constructed a two-family affordable home.
- Nantucket provided assistance to Habitat for Humanity for construction of one or more affordable units.
- Rockport funded a rental and mortgage assistance program.
- Wareham studied converting specific buildings to affordable housing.
- Wayland purchased 2.75 acres from the federal government for 16 units of affordable housing.
- Weston funded a 12-year bond to purchase permanent affordability deed restrictions on 13 units.

Sources

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