



**JOINT COMMITTEE ON HOUSING  
JANUARY 18, 2024**

**HOUSE BILL NO. 4138, AFFORDABLE HOMES ACT**

**TESTIMONY OF MICHAEL DUFFANY  
ON BEHALF OF THE  
HOME BUILDERS AND REMODELERS ASSOCIATION OF MASSACHUSETTS**

Senator Edwards, Representative Arciero, members of the committee, my name is Michael Duffany, president of the Home Builders and Remodelers Association of Massachusetts. I thank you for this opportunity to testify before you today in support of the Healey-Driscoll Administration's efforts to confront the commonwealth housing crisis.

The Home Builders and Remodelers Association is the statewide trade association of the residential construction industry consisting of more than 1,400 member companies. The women and men of our association are involved in the permitting and development of land for residential uses, the construction of single-family homes, townhomes and apartments, as well as the remodeling and improving existing single-family homes.

I am a homebuilder myself and am typical of our builder members. I started my business, M. Duffany Builders, in 1983. Since those humble beginnings, we have grown from 2 to more than 50 employees. Based in Falmouth, we build and remodel homes throughout the Cape. We take pride in the homes we build, but more so, we take pride in building community. But building homes and communities that families can afford, especially young families, first-time homebuyers and first-generation homebuyers has become nearly impossible, not only on Cape Cod, but throughout the commonwealth.

The barriers to building attainable housing – and from my parochial perspective especially so on Cape Cod – are many. They begin with large-lot zoning for single-family homes, the lack of zoning for multi-family development by right, local wetland and septic regulations that exceed state standards without any environmental or health benefits, lengthy and costly permitting before local boards of

volunteers who have no training or expertise in zoning or planning, the lack of an adequate skilled labor workforce, new state stormwater regulations that will add at least \$18,500 to every single-family house lot, the adoption by cities and towns of the new Municipal Opt-in Specialized Stretch Energy Code that a joint study by MIT and the Wentworth Institute estimates will add an additional \$23,000 to a typical newly constructed single-family home, as well as frivolous abutter appeals that can tie up a project up for years.

The Affordable Homes Act before you today contains many proposals that will help increase housing production in Massachusetts, including:

- A state override of home rule to allow for accessory dwelling units by right in every residentially zoned district within a city or town;
- \$800 million in new capital authorization for the Affordable Housing Trust Fund;
- \$175 million for the HousingWorks Infrastructure Program to fund municipal infrastructure projects to encourage denser housing development;
- \$100 million for the Commonwealth Builder Program at MassHousing to spur construction of affordable homeownership opportunities in Gateway Cities and other similar markets;
- \$35 million in new capital authorization for Housing Choice Grants;
- \$20 million in new capital authorization for the 40R Smart Growth Housing Trust Fund;
- A new Homeownership Tax Credit designed to produce homes affordable to first-time homebuyers earning not more than 120% area median income;
- A Seasonal Communities Local Option Property Tax Exemption for the development of year-round rental units;
- Requiring the Executive Office of Housing and Communities to prepare a statewide housing plan every 5 years; and

- Establishing a temporary streamlined process for the disposition of state land for housing purposes.

While there's much in this legislation our association supports, I must go on record with our opposition to two provisions that we believe are contradictory to the goals of increasing housing production and making housing for all Massachusetts residents more affordable.

The proposed real estate transfer tax will hurt potential homebuyers by increasing prices and reducing inventory. Lowering the threshold for the adoption of inclusionary zoning ordinances and bylaws without mandating a density bonus will only serve to raise the cost of a new home or apartment to market rate buyers and renters and, in some instances, make a project uneconomic, thereby thwarting needed housing production.

And let me speak to housing production, particularly single-family housing production. Massachusetts suffers from a dire lack of new single-family homes that is driving young families out of our great state and consigning those who historically have been denied the opportunity to own a home to never doing so. Here are some sobering statistics.

During the first half of the two-thousands, from 2000 to 2005, Massachusetts averaged 16,665 new single-family building permits annually. From 2006 through 2010, which included the years of the Credit Crisis and Great Recession, less than half of those permits—7,225—were issued. We have never recovered from that setback. From 2011 through 2020, an annual average of a mere 6,730 permits were issued for single-family homes. And while we don't have the final numbers from the Census Bureau for 2023, through November of last year, a scant 4,719 single-family permits were issued. Regrettably, I am not optimistic for what this new year holds for single-family building in Massachusetts.

So, what can be done? There is no silver bullet, but the Home Builders and Remodelers Association does urge the Housing Committee to consider the inclusion of the following policy proposals when it reports the Affordable Homes Act out of committee:

- Amend the Smart Growth Zoning and Housing Production Law to increase the amount of the zoning incentive payments and housing production bonuses paid by the commonwealth to municipalities for adopting a smart growth or starter home zoning district. The amount of those payments was originally established in 2004 and are woefully inadequate to serve as an incentive for cities and towns to zone for housing, especially single-family starter homes.
- Amend the Smart Growth School Cost Reimbursement Act to provide that a city or town that has established a starter home zoning district be eligible to receive smart growth school cost reimbursement from the commonwealth.
- Establish a state tax credit for builders who build new starter homes in compliance with the Municipal Opt-in Specialized Stretch Energy Code similar to the federal New Energy Efficient Home Credit (Internal Revenue Code, Section 45L). Under the federal program, a \$2,500 tax credit is available for homes certified to meet the ENERGY STAR Single-Family New Home (SFNH) program requirements. A joint study by the MIT Center for Real Estate and Wentworth Institute of Technology estimates that the new Specialized Stretch Energy Code is likely to increase the cost of home construction by roughly 1.8% to 3.8% – adding approximately \$10,000 to \$23,000 to the median cost of a single-family home and putting homeownership out of reach for between 15,000 and 33,000 households in Massachusetts. The committee should include a state tax credit to builders of at least \$19,000 for any starter home built to the specifications of Chapter 40Y, the Starter Home Zoning District Act, to mitigate the impact of the Specialized Stretch Energy Code on new home buyers.
- Amend the Zoning Act to provide that adjacent lots under common ownership not be treated as a single lot, for local zoning purposes, if at the time of recording or endorsement conformed to then existing requirements of area, frontage, width, yard, or depth, where

each such lot has at least 10,000 square feet of area and 75 feet of frontage and is located in a zoning district that allows for single-family residential use, provided that any single-family home constructed on said lot be built to the specifications of Chapter 40Y, the Starter Home Zoning District Act. The greatest impediment to building attainable new homes is the cost of land. Communities that require a minimum lot area of an acre or more are the major reason house homes are so expensive.

- Amend the Zoning Act to mitigate the effect of the automatic standing granted to abutters who file an appeal from the granting of a permit to develop housing. It is too easy for an abutter to simply claim that a proposed development will cause harm due to increased traffic, noise, storm water runoff, etc., without actually providing some substantiation of their claim. Plaintiffs should be required to submit within 60 days of the filing of a complaint, an affidavit that he or she will be able to submit evidence at trial of their claims. Failure to do so would result in the appeal being dismissed for lack of standing.
- Amend the Zoning Act to provide special permits lapse within a specified period of time, but not less than 3 years from the date of filing of such approval with the city or town clerk, thereby providing a builder with more time to secure financing, materials, etc., to begin a project.
- Amend the Zoning Act, the Subdivision Control Law and other statutes to require that members of zoning boards, planning boards, local conservation commissions and boards of health attend free pre-service training programs to be offered by the state. Local boards and commissions are made up of people from every walk of life. While some may have some knowledge or experience with zoning, planning, etc., most have none, nor are they required to. Yet they are given the legal authority to set policies and make regulations that impact housing development. Having a basic understanding of the law,

regulations and science of public health, environmental protection, zoning or planning will result in better decision-making by these volunteers.

On behalf of the Home Builders and Remodelers Association of Massachusetts, thank you for your consideration of our views and we look forward to working with you to enact a bill this year that will truly make housing more affordable and attainable for all the residents of the commonwealth.