

## STATE PREEMPTION AND MULTIFAMILY HOUSING

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Massachusetts General Court, Joint Committee on Community Development and Small Businesses  
Matters Pertaining to Zoning and Housing

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Chairs Coppinger and Collins and members of the committee, thank you for the opportunity to testify on H. 298. My name is Salim Furth, and I study land use regulation and housing markets as codirector of the Urbanity Project at the Mercatus Center at George Mason University.

The policies embodied in H. 298 reflect the rising trend of state laws around the country that reframe local zoning authority with the intent of expanding housing supply.<sup>1</sup> The United States, and Massachusetts especially, need more homes. The steady rise of prices and rents reflect a decade of underproduction nationally, and decades of underproduction in eastern Massachusetts.<sup>2</sup>

Increasing the supply of new housing would slow the rise of rents and home prices, reduce residential segregation, and expand opportunity for thousands of citizens.<sup>3</sup>

H. 298 includes a mix of worthy measures, some of which empower elected town officials to permit new housing and some of which limit the scope of local authority in maintaining barriers to new housing.

Under current law, Massachusetts requires supermajority votes of the planning board, town meeting, or other governing body for most development decisions. To my knowledge, no other state takes this approach. The result, in Massachusetts, is that a few vocal opponents of growth can veto popular projects. Uncertainty scares developers away and raises costs for homebuyers and renters.

Massachusetts took the first step toward weakening the veto power of vocal minorities in last session's H. 5250, which allows a simple majority vote for rezonings that expand housing opportunities.

H. 298 would build on that success. It would empower local officials by enabling town boards to issue special permits and approve site plans with a simple majority vote. It would also clarify that site plan

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1. See, for example, California S.B. 10, Connecticut H.B. 6107, Massachusetts H. 5250, Oregon S.B. 458, and Utah H.B. 82, all signed into law during calendar year 2021.

2. Amy Dain, *The State of Zoning for Multi-Family Housing in Greater Boston* (Boston: Massachusetts Smart Growth Alliance, 2019).

3. Matthew Resseger, "The Impact of Land Use Regulation on Racial Segregation: Evidence from Massachusetts Zoning Borders" (working paper, Harvard University, Cambridge, November 2013); Raven Molloy, "The Effect of Housing Supply Regulation on Housing Affordability: A Review," *Regional Science and Urban Economics* 80 (2020): 103350.

review is intended to be an objective, not discretionary, review. Both of these steps would add certainty and clarity to the development process.

Another provision of H. 298 is much more ambitious: it would require that every town legalize multifamily housing in at least 1.5 percent of its “developable land.” This is a good idea that would decrease socioeconomic and racial segregation and lower housing costs. However, the legislature already took a similar action in section 18 of H. 5250, and it may reasonably want to wait until that law is fully implemented via regulations currently being drafted by the Executive Office of Housing and Economic Development.

Thank you for your time and your attention to the vital matter of expanding housing opportunity throughout the commonwealth.