

# BANKER & TRADESMAN



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## HOUSING MATTERS

# Multifamily Housing Law Puts Responsibilities on MBTA Communities

The State Has Been Responsive – It's Time for Municipalities to Do the Same

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SPECIAL TO BANKER & TRADESMAN



**T**ransit-oriented development, also known as TOD, is a promising concept. It refers to locating buildings we live in or work in near public transit, so that the number of cars crowding streets and highways is reduced, consequently reducing pollution and saving commuting time.

Advocates and public officials have been trying to encourage transit-oriented multifamily housing development for a long time. Many communities, for one reason or another, are resistant to this kind of development at all, let alone in optimal locations that benefit from proximity to public transit.

But the prospects for siting new multifamily TOD are improving, the result of a law passed by the state legislature in 2020 and some recent guidelines that clarify how that law will work.

### What's New?

A relatively new section of the commonwealth's framework housing law, Chapter 40A, requires that each of the 175 cities and towns served to some extent by the MBTA's system have one district of reasonable size in which multifamily housing is permitted by right.

Housing must be appropriate for families, and density is set at least 15 units per acre. This housing must be not more than half a mile from a public transit station.

Under the law, municipalities that don't comply will be penalized. They will be ineligible for major state grants like the Housing Choice Initiative, Local Capital Projects Fund and the MassWorks infrastructure funds.

**The Baker administration should be applauded for its commitment to work through the zoning reform's thorny issues.**

The "MBTA communities" affected by the law, including most of the eastern third of the commonwealth, include places that are directly served by the MBTA and those that abut a city or town directly served.

When the original draft guidelines were issued by the Department of Housing and Community Development (DHCD) for the new law last December, extensive public hearings were held and hundreds of comments were submitted. Some communities objected in principle to the mandate, while others noted that unique features

of a community may restrict its ability to comply.

DHCD was responsive and issued revised guidelines and clarifications in August. These included eliminating the requirement for communities only served by bus, reduced unit requirements for small and rural towns with no transit stations and granted exemptions for communities where at least 25 percent of their housing stock is multifamily housing.

The adjusted rules also make accommodations to communities that don't have as much developable land near a transit station, and the state developed a GIS digital mapping and data visualization tool that will help each city or town comply.

There were also graduated timetables for compliance. Communities served by MBTA subway lines need to develop a plan by the end of 2023, those served by commuter rail and transit "adjacent" communities have until 2024 and finally "adjacent small towns" have until the end of 2025.

### Time to Engage in Our Communities

The next step is to focus on the implementation phase. Jesse Kanson-Benanav, the Executive Director of Abundant Housing Massachusetts, a housing advocacy organization with a goal of educating communities about the law, estimated that if all 175 communities complied with the

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new zoning requirements as originally written and all the allowed housing were built, the region would have an additional 300,000 housing units.

The Massachusetts Municipal Association was a strong opponent of the law, arguing in a May letter to the Boston Globe that it is “one-sided, handing private developers ‘as of right’ power to build housing projects ... while denying municipalities the authority they need to manage the impact of large-scale growth.” But the association is now focusing on helping municipalities follow the guidelines.

Even more recently, DHCD has continued to work through the operational issues to en-

sure not only that the law is equitably applied but also that it facilitates the public purpose of creating more housing within a community that serves a broad base of need. Specifically, DHCD has issued further guidance of how to harmonize this law with local inclusionary zoning by-laws to ensure affordable housing is created and that goal isn’t thwarted.

Opposition to the law remains, in Rockport, Fall River, and a handful of other affected communities. But within the Baker administration, DHCD should be applauded for its commitment to work through the thorny issues of something as ambitious as this new multifamily zoning

law. If most municipalities are feeling heard but still willing to undertake these efforts, that is no small feat.

But it is up to all of us, engaging where we live, to ensure that this law achieves its promise – more production of much needed multifamily housing in the commonwealth. To make it real means more housing in more locations near transit – something we desperately need. ◀

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