



Commonwealth of Massachusetts
Executive Office of
Housing and Livable Communities

MBTA Communities: Takeaways from reviews to date

MMA/MMLA webinar March 13th, 2024



What is an MBTA Community?

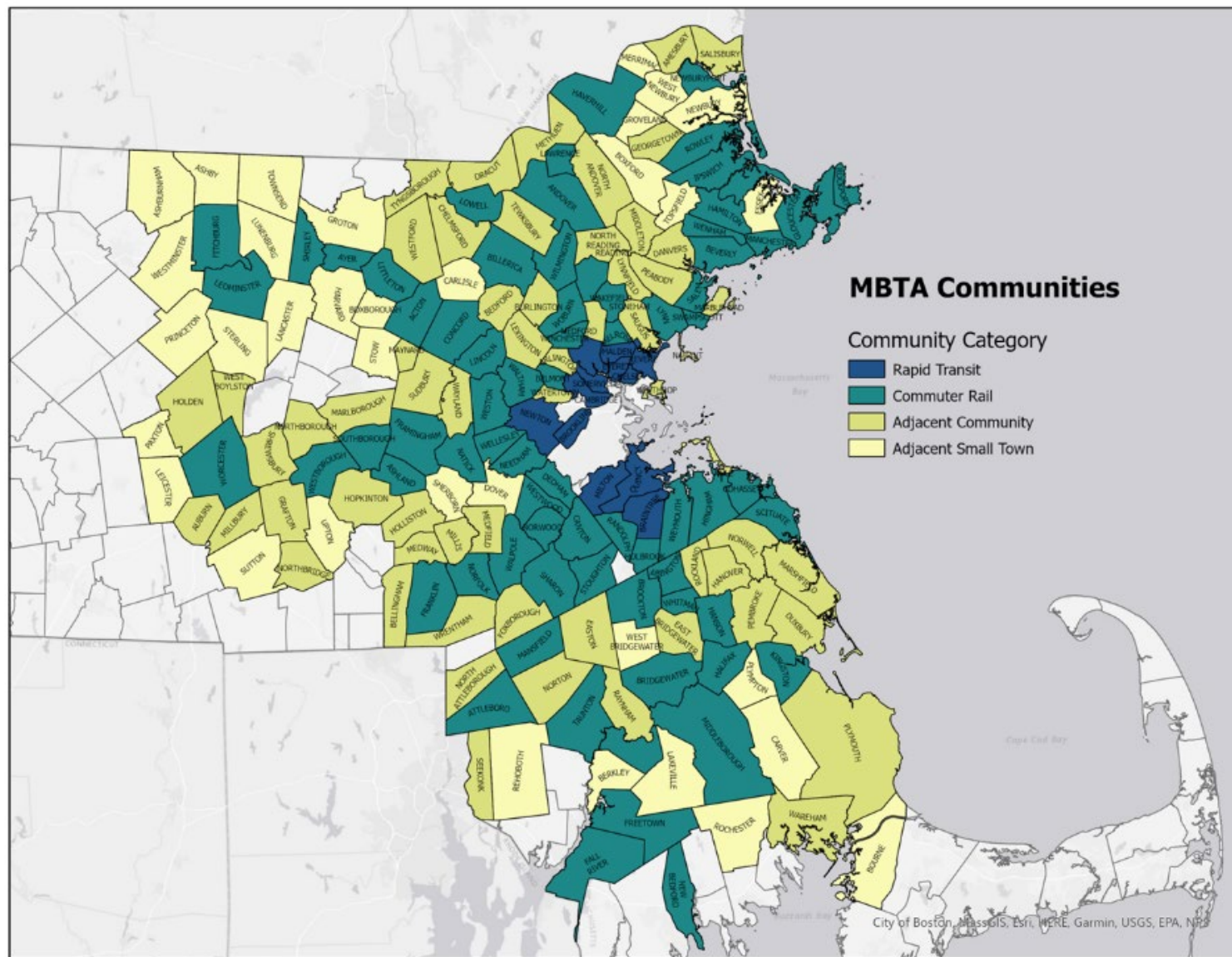
177 municipalities

Generally, have a fixed transit station or abut a municipality that does

4 Community categories

1. Rapid Transit (12)
2. Commuter Rail (72)
(Foxboro now CR)
3. Adjacent (58)
4. Adjacent Small Towns (35)

Categories affect “reasonable size”, district location, and timeline





Statistics – see Status table on mass.gov/mbtacommunities

23 district compliance applications received

- 3 municipalities deemed compliant (Salem, Lexington, Arlington)
- 20 applications are in review

42 Pre-adoption review applications received

- 15 communities received feedback
- 27 in review
- EOHLC pre-adoption reviews are taking approximately 90 days
- Written feedback is detailed and often followed by a MS Teams meeting with municipal staff.



Goal: Provide TA to every municipality that wants it. This goal will be achieved through a multi-year effort starting FY23 and carrying out over the next several years

In the 18 months since guidelines were issued EOHLC and partners have provided over \$6M in technical assistance to 156 municipalities



Takeaways from District reviews and Pre-adoption reviews

Carefully review existing zoning provisions

- For example – if zoning contains definitions that affect density calculations (such as a “lot characterization factor”) where stated 3A density would be greatly reduced.
- Suggestion: Exempt 3A districts from that provision.

Compliance Model (CM) outputs are subject to cross-checks with zoning provisions

- Zoning metrics that are input to CM are verified against text, but not all zoning parameters are input into CM.
- For example: District area covers small lots with relatively large setbacks – will be flagged as inhibiting as of right Multi-Family development

Takeaways from District reviews and Pre-adoption reviews

Clarifications on Size and Location requirements

- May have more than one district location
- Each district area must be a minimum of 5 acres (except Adjacent Small Towns)
- ½ of total district size must be contiguous. For example, if all 3A districts total 60 acres, then at least 30 acres needs to be contiguous.
- What is contiguity? See Information Sheets available at mass.gov/mbtacommunities under "Resources" section

Mandatory Mixed Use (MMU) districts that REQUIRE ground floor commercial

- MMU district location must be approved by EOHLC – short form, simple feedback
- Can be used to make two 3A districts contiguous (VT – NH – ME where NH is a MMU district)
- MMU Districts are NOT 3A districts, and therefore do not count towards Minimum land area NOR contribute to the ½ district contiguity)



What Section 3A Doesn't Do

3A DOES NOT:

- Require production of housing
- Compel communities to pay for infrastructure for future development
- Supersede Wetlands Protection Act or Title V of MA Environmental Code
- Supersede historic districts
- Allow municipalities to get a waiver or exemption from the requirements



Technical Assistance

Assistance is being provided to communities through collaboration and coordination:

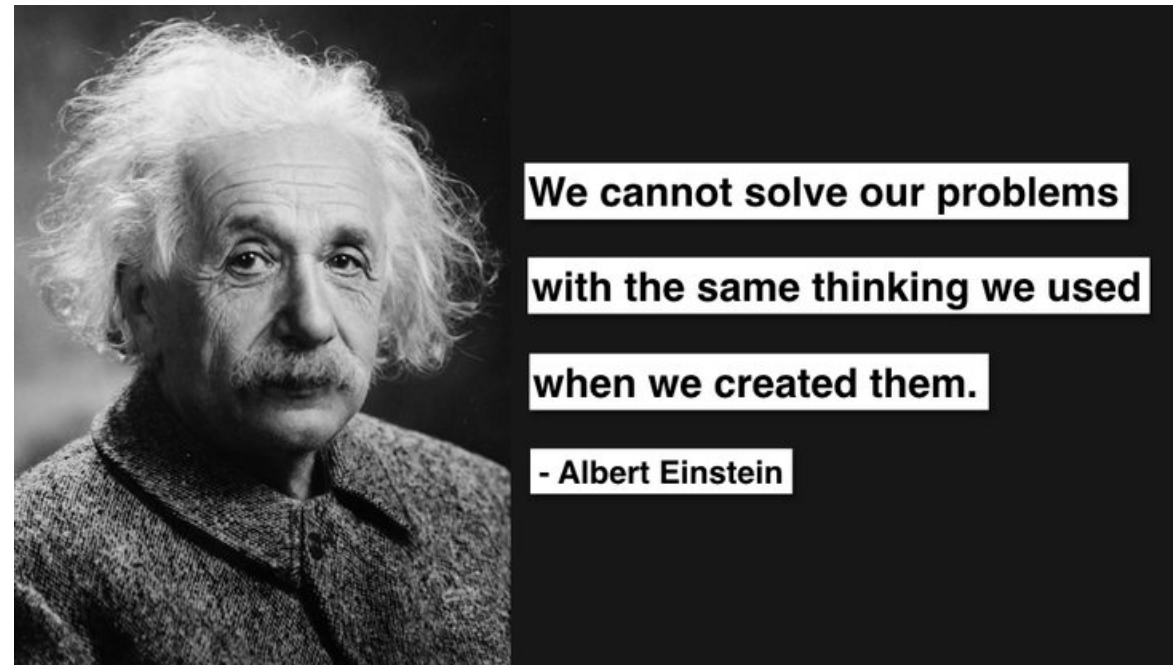
- Massachusetts Housing Partnership (MHP): Leveraging a variety of resources, MHP is delivering a comprehensive technical assistance program available to all interested MBTA Communities. **>100 municipalities received consultant assistance.**
- EOHLC: Via the Community One Stop, the following grant programs are available: Housing Choice Grant Program, Community Planning Grants **Funded approximately 60 grants for 3A compliance**
- EEA: Land Use Planning Grant program will also prioritize MBTA municipalities. **To date: 7 grants for 3A compliance.**
- Regional Planning Agencies: Support from eight Regional Planning Agencies through prioritization of Commonwealth-provided District Local Technical Assistance (DLTA) funding. To date: **>20 municipalities getting assistance via DLTA**
- CHAPA is providing trainings in public engagement strategies to **over 50 municipalities** in “cohort” groups and is excellent at setting the table for “what is zoning” before starting on “What is MBTA Communities”

EOHLC Contact information

Send specific technical questions to program staff at:

EOHLC3A@mass.gov

mass.gov/mbtacomunities



Contacting the Municipal Law Unit:

Bylaws email: bylaws@state.ma.us

MLU website: www.mass.gov/ago/munilaw

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The Office of The Attorney General of Massachusetts Municipal Law Unit (MLU) Decision Lookup

Browsing by Year

Municipal Law Unit (MLU) By-law Decisions by year are available below. To view decisions from a particular year, click on the "Browse by Year" dropdown and select the year you wish to view. Decisions will be displayed chronologically, with the most recent decision for that year at the top. Click on the Case Number, Town or Decision Date to access the decision. Please note that not all decisions will reference a Topic. Additionally, please be aware that a specific MLU Decision may include additional topics beyond the Topic listed.

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If you have any questions about how to search MLU Decisions, please contact the Municipal Law Unit at 508-792-7600.

From Date

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(mm-dd-yyyy)

Full Text Search

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Search Text

(Combine keywords with operators - AND, NOT, OR - and use quotations for an exact phrase)

Case Number

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Topic

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ELECTIONS
FAIR HOUSING ACT
FORMULA BUSINESS
HOUSING CHOICE
MBTA COMMUNITY ZONING
MEDICAL MARIJUANA
PUBLIC CONSUMPTION OF MARIJUANA
RESPONSIBLE EMPLOYER
SEX OFFENDER
SHORT TERM RENTALS
SOLAR
VACANT AND FORECLOSING BUILDINGS

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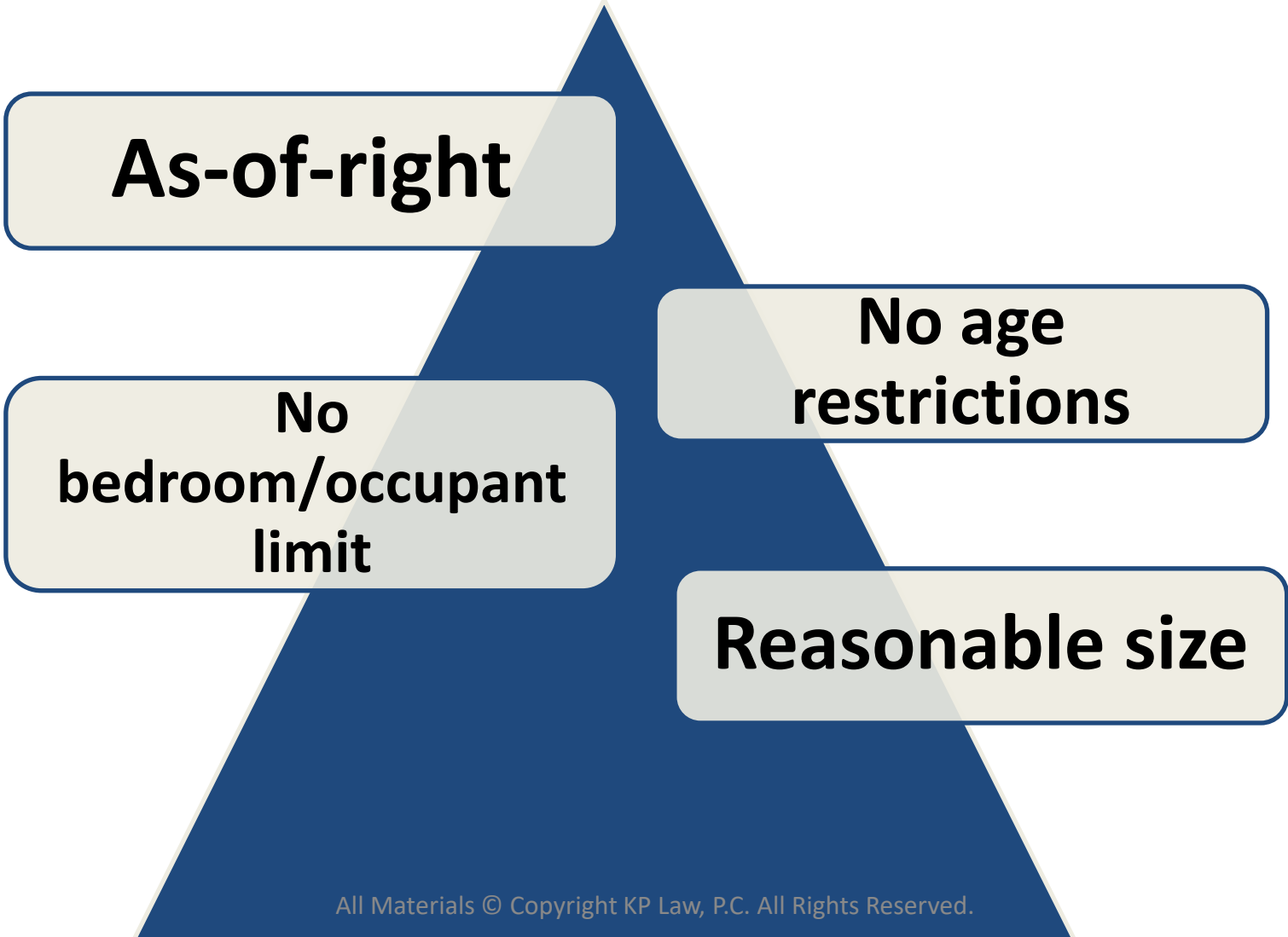
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G.L. c. 40A, § 3A

Requires that “[a] MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

Key items to look for in the proposed Bylaw/Ordinance



As-of-right

**No
bedroom/occupant
limit**

**No age
restrictions**

Reasonable size

Multi-Family Use must be allowed as-of-right

- Review the proposed amendment to confirm that multi-family zoning is allowed as-of-right. Pitfalls to watch out for:
 - Site Plan Review (special permit and/or denial)
 - Special permits required under Floodplain Overlay, Water Resource Protection Overlay, Groundwater Protection Overlay, etc.
 - Inclusionary Zoning (inconsistencies and/or special permit)

Site Plan

Site plan review may be required for multi-family housing projects that are allowed as of right to regulate vehicular access and circulation, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right (see, Guidelines, Section 4).

Since many proposed Bylaws/Ordinances will refer back to an existing Site Plan Review Section already in the Bylaw/Ordinance, a review of the existing section is imperative to confirm compliance with §3A. Check for special permit requirements and/or denial provisions.

A proposed Bylaw/Ordinance can also include design requirements and override an existing Site Plan Review Section.

Other Districts

Review the proposed district to make sure it is not subject to requirements of districts such as Floodplain, Groundwater Protection and/or Water Resource Protection that will either require a special permit and/or prohibit the construction of multi-family housing as of right.

Inclusionary Zoning

Check the existing Bylaw/Ordinance for an Inclusionary Zoning Bylaw Section then either make sure the existing section complies with the Guidelines or make sure the proposed amendment is exempt from the existing section.

EOHLC will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. (Guidelines, Section 4)