



Part II

OPPORTUNITY OR OBSTACLE?

The Use of Public Land to Build
(and Block) Affordable Housing

Pictured: Nubian Square in Boston (via Apple Maps)

INTRODUCTION

Greater Boston is in the midst of a housing crisis. The average single-family home in the region costs nearly \$800,000.²⁸ Building new housing—especially affordable housing—is prohibitively expensive as a consequence of a wide range of factors including local regulatory barriers and rising construction costs.²⁹ Policymakers statewide and nationally are weighing a variety of proposals that might bring down the costs of housing development and increase the housing supply.

Multiple states have passed laws requiring local governments to streamline local permitting processes. The Harris-Walz housing plan calls for regulatory reform that would ease the construction process for millions of new housing units.³⁰

To further subsidize the development of more housing, advocates and policymakers have also pushed to use public land as a site of new housing units. In many communities, federal, state, and local governments own a sizable chunk of property, much of it vacant or underused. In some places, the government is the biggest single landowner. A bipartisan set of policymakers and advocates across the United States have long seen this underused publicly owned land as an untapped resource that might help the nation redress its pressing housing affordability crisis. Indeed, both President Biden's housing plan and the Republican National Committee's platform call for the sale of federal lands to affordable housing developers, though they differ in which types of lands should be made available for development.³¹ Massachusetts' Affordable Homes Act, passed in summer 2024, requires the Commissioner of the Division of Capital Asset Management and Maintenance to examine the inventory of Commonwealth-owned land and identify land appropriate for affordable housing development.

Local leaders are also stepping up to identify opportunities in their own cities and towns. In 2022, Mayor Michelle Wu of Boston spurred a citywide audit of public land. In its published report, “Public Land for Public Good: Citywide Land Audit,” the city identified 9.5 million square feet (around 220 acres) of potentially underutilized land.³² Two of the three goals the city has for this land are the production of affordable and transitional housing. The city currently has six large properties that it is attempting to repurpose into housing.³³ Multiple other communities regionally are similarly exploring using public land as a site of affordable housing.

The special topic of this year’s *Greater Boston Housing Report Card* explores the possibility of using publicly owned land to develop affordable housing across the Boston region. We amass a wide array of data on public land across dozens of communities; interview policymakers and housing developers; and analyze meeting minutes, newspaper records, and other historical archives. While we found great opportunity in the availability of land across the state, we also identified a number of key challenges, including regulatory processes and public opposition, that act as barriers to leveraging this resource. In fact, our research uncovered a number of cases across the state where public land ownership is *weaponized* to prevent the development of housing.

KEY FINDINGS:

- ▶ Almost one-fourth of land in Greater Boston is publicly owned, and much of this land is both vacant and not set aside for conservation. **If just 5 percent of the state and municipally owned, vacant, non-conservation land could be redeveloped into housing at a density of 15 units per acre, the region could obtain more than 85,000 units of housing.**
- ▶ **The combination of public procurement laws and the housing permitting process make the redevelopment of public land prohibitive in many cases.** State and local regulatory processes create a highly discretionary and fragmented system that makes redevelopment onerous even in places where officials and the broader community are highly supportive. Indeed, even declaring public land “surplus” and available for redevelopment is itself an intensive bureaucratic process.
- ▶ **Public opposition is a formidable obstacle to developing new housing on public land. In some places, opposition to housing is so severe that communities actually acquire public land—at significant cost—to stop the development of new housing.** Since 2010, we identify 13 instances where communities purchased property to stop a housing development, using over \$50 million in public funds, including resources from the Community Preservation Act.

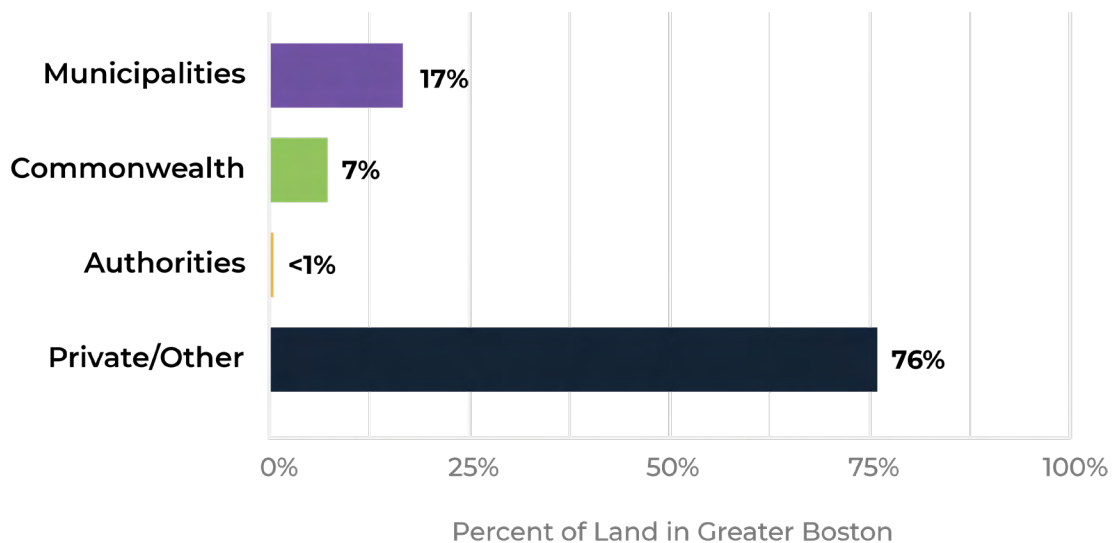
AVAILABILITY OF PUBLIC LAND

How much land is owned by the Commonwealth or by the 147 municipalities in Greater Boston?³⁴ This is a challenging question to answer, as there are several different data sources, and there are significant differences and discrepancies between them.³⁵ The best data source on land ownership is the MassGIS Property Tax Parcels database,³⁶ which aggregates data from every municipality in the Commonwealth and maintains a standardized database of every tax parcel, including the owner, lot size, and current use of each parcel.³⁷

Overall, we estimate that 7 percent (approximately 102,000 acres) of land in Greater Boston is owned by the Commonwealth, and 17 percent (approximately 239,000 acres) by municipalities. To put this into context, the area owned by the Commonwealth is roughly the equivalent of the northern part of Middlesex County (the green area in Figure 2), and the area owned by the municipalities is roughly the equivalent of the contiguous part of Norfolk County (the purple region in Figure 2).³⁸

FIGURE 1 ESTIMATED LAND OWNERSHIP

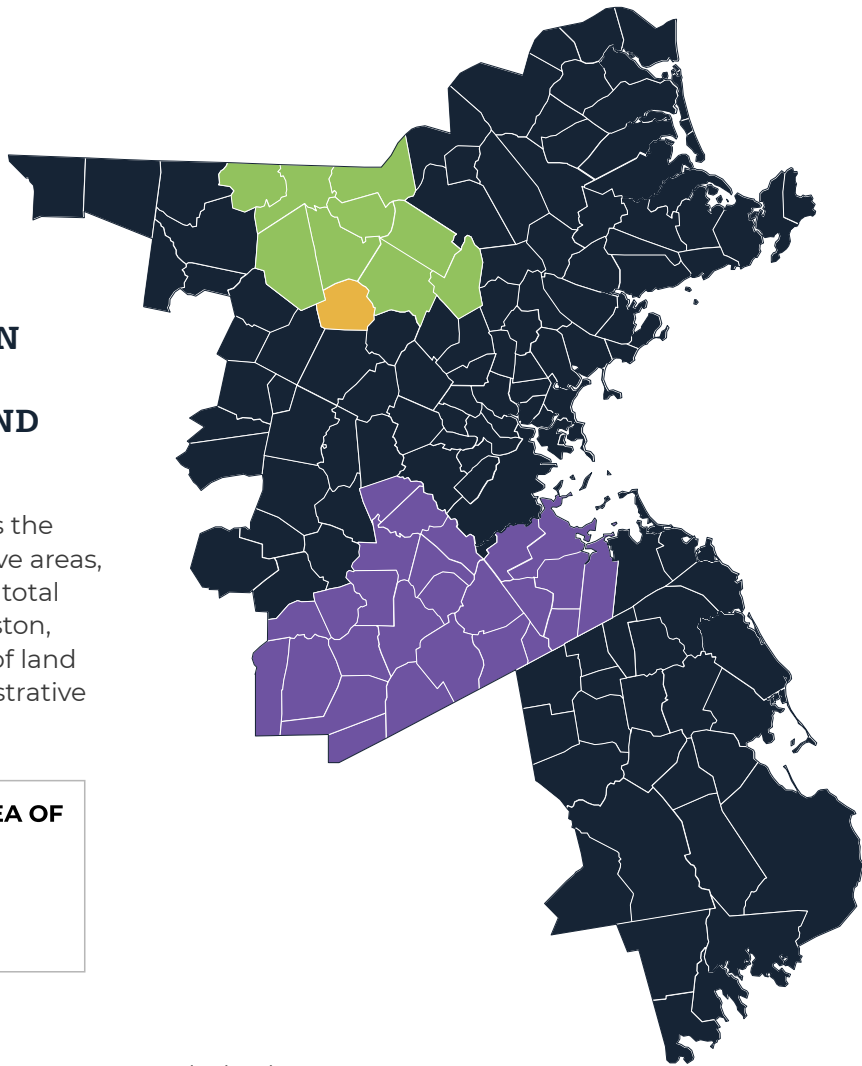
This figure displays the estimated percentage of land owned by municipalities, the Commonwealth, public authorities (such as the MBTA and housing authorities), and private entities.



Source: MassGIS Property Tax Parcels database.

**FIGURE 2
ILLUSTRATION
OF RELATIVE
AREAS OF LAND
OWNERSHIP**

This figure displays the approximate relative areas, as a percentage of total area of Greater Boston, for each category of land ownership. For illustrative purposes only.

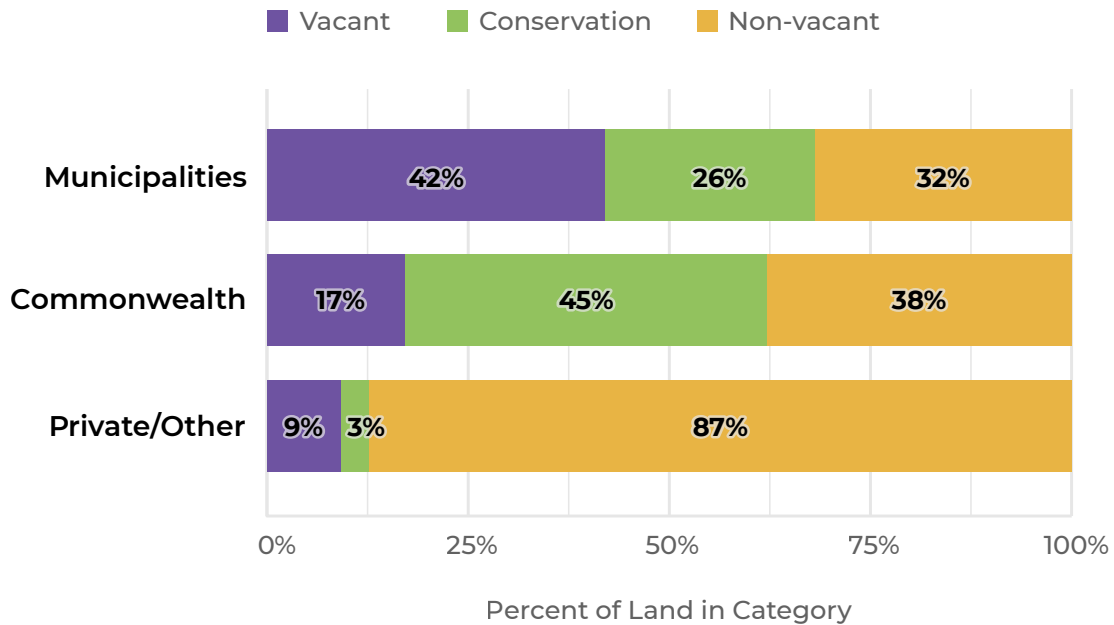


Source: MassGIS Property Tax Parcels database.

Much of this land is used for essential public services, including public administration, public safety, education, transportation, housing, and countless other important uses. A large portion is also reserved for conservation, creating vital green space for environmental protection and recreation.³⁹ However, based on the MassGIS database, a substantial portion of the publicly owned land is neither used for government services nor conservation, but simply sits vacant.⁴⁰ Figure 3 compares the usage of land by owner. We estimate that more than 40 percent of municipal-owned land is vacant, more than double that of Commonwealth-owned land, and more than quadruple the rate of privately owned land. There are more than 95,000 vacant acres of municipal-owned land in Greater Boston, an area equivalent to three times the size of Boston. In addition, the Commonwealth owns more than 17,000 acres of vacant land in the Greater Boston Area, about the size of Framingham.⁴¹ This volume of vacant property across Massachusetts represents a seemingly incredible opportunity for housing development.

FIGURE 3 VACANT AND CONSERVATION LAND BY OWNERSHIP TYPE

This figure displays the estimated percentage of land classifications by ownership type. Vacant land is defined either by the use code of the property or the style of the building in the MassGIS database. If the property is both vacant and conservation land, we code the property as conservation land.



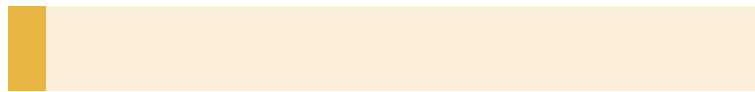
Source: MassGIS Property Tax Parcels database.

Of course, not all of this vacant land is suitable for housing. Some land may be temporarily vacant, but reserved for upcoming projects. Other properties may not be suitable for housing development due to its location, condition, topography, or other factors. Parcels may be environmentally contaminated, with remediation either impossible or prohibitively expensive. Or, they may be sensitive environmental habitats or much-needed recreational greenspaces.⁴² In general, public land presents policymakers with challenging tradeoffs that weigh a number of important goals, including conservation of valued greenspace, commercial redevelopment, and housing, among others.

A simple back-of-the-envelope calculation reveals the massive potential of this vacant land for housing. Suppose that a mere 5 percent of the vacant municipal and Commonwealth owned land could be developed into housing, at the same minimum density as under the recently passed MBTA Communities Act of 15 units per acre. Under this scenario, approximately 72,000 units could be built on municipal land and 13,000 on Commonwealth land, for a total of 85,000 units. In a state facing a housing shortage of 200,000 homes by 2030, this utilization of public land in the Greater Boston Area has incredible potential. At higher densities, or with greater utilization of this vacant land, far more units could be built as well.

Additionally, this estimate ignores the potential of using any of the currently in-use parcels for housing as well. Many of the parcels used for other purposes have space that could also accommodate dense housing, such as large parking lots or portions of the parcel that are currently underutilized. Using this land not only opens up additional parcels for development, but offers the opportunity to place housing proximal to existing infrastructure and public services.

5% of the vacant municipal and Commonwealth land



Can accommodate at least 85,000 new units of housing. (at MBTA Communities Act minimum density)



For example, a few communities redeveloping their public libraries are considering adding affordable housing units above ground-floor libraries. Boston's West End Library is currently undergoing development, with the goal of building 119 affordable units in 12 stories above a two-story library.⁴³ Arlington is presently in the planning process for adding affordable housing in the development of the Fox Library, and other municipalities are evaluating similar opportunities. Libraries are just one of many possible types of public properties that could be used for both housing and public services, and they are widespread across Greater Boston.⁴⁴ However, as Boston concluded when researching libraries-with-housing developments in 2018 (and as we discuss below), state procurement laws and procedures are one of many obstacles that make such projects difficult. The city noted in its report: "Procurement law isn't designed for these projects. Housing with Public Assets will only be possible if we can find a legal mechanism that supports coordinated and efficient design, construction and operations while ensuring transparency and fairness."⁴⁵

The City of Boston has also had some success adding affordable housing on land owned by the Boston Housing Authority (BHA). The city replaced an older public housing development with hundreds of refurbished new units in the The Old Colony Project in South Boston.⁴⁶ A similar project is also underway in Charlestown in partnership with a private developer.⁴⁷ Taylor Cain, the Chief of Staff at the Boston Housing Authority, notes that, "because we are a public institution whose mission it is to create housing," it is easier to redevelop land owned by the BHA into housing; the land is often already used for housing (and therefore zoned for housing). This eliminates many of the regulatory obstacles and the debates over competing land uses that we outline further below, but only applies to the small share of publicly owned land already owned by housing authorities.

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It is clear from the MassGIS data that the Commonwealth and municipalities⁴⁸ own a huge amount of land with incredible potential for housing development. Both the Commonwealth and some municipalities, including the City of Boston,⁴⁹ are currently working to review their land inventories and identify properties suitable for housing. But, with more than 4,000 Commonwealth-owned parcels and 40,000 municipal-owned parcels, identifying such properties will not be simple. Furthermore, even once identified, there are major obstacles preventing these publicly owned lands, even when ideally suited to crucially-needed housing, from being developed.

OBSTACLES TO DEVELOPING ON PUBLIC LAND

Despite the promise of this housing development strategy, our analysis has revealed a myriad of reasons explaining why public land mostly does not become housing.

First, identifying publicly owned land is surprisingly challenging. Moreover, once municipalities identify public land, they must assess whether parcels are fit for development. For these developable parcels, communities must then weigh the construction of housing against the many other competing demands that require land, including the need for schools, police stations, and fire departments. In Somerville, an 8 acre plot next to the Gilman Square T stop has been vacant since 2019 when the City demolished the Homans Food Building at 350 Medford Street (this is the larger of two parcels the city owns at this location). Despite community frustration at the slow process, and mobilization in support of housing development, the city has been slow to develop the parcel, most recently announcing the need for a disposition study.⁵⁰ According to Ben Demers, Somerville's Economic Development Planner, "This is one of the few city-owned lots of this size in this area, and this means that we need to weigh competing priorities for its use."⁵¹

In 2021 the City of Newton purchased a portion of the Walker Center for Ecumenical Exchange with \$2.45 million of American Rescue Plan Act funds.⁵² The property is adjacent to Williams Elementary School; its multiple historic buildings comprise 7,400 square feet and have 14 bedrooms.⁵³ At the time of purchase, the intent was to use a portion of the property for a future expansion of the elementary school, and a portion for permanently affordable housing in the historic buildings.⁵⁴ The City was awarded \$235,500 from the Massachusetts Housing Choice Grant program to examine the feasibility of affordable housing in October 2022.⁵⁵ In spring of 2024 the Real Property Reuse Committee held a public hearing to determine whether to recommend the property (about 70 percent of the purchase) for lease for affordable housing development. The other 10,000 square feet was set aside for future expansion of the school's outdoor recreational space.⁵⁶ The Commissioner of Public Buildings had assessed the property and future needs and priorities within the school district, and the Director of Planning and Development had recommended that this property be used for housing, but there was vocal community opposition to the plan.^{57,58} In this case, housing has become pitted against prospective needs for the school district, despite the stated goals of the purchase.

Even if the municipality decides to use the property for housing, building new housing is deeply politically unpopular and bureaucratically challenging. Our in-depth interviews and analysis of meeting archives, town meeting votes, and newspaper articles reveal that many seemingly viable housing projects proposed on suitable public land never come to fruition. We uncover multiple reasons, which we delve into below.

1 Policies, Political Institutions, and Regulations Governing Public Land

In most communities in Massachusetts, multifamily housing has not historically been allowed “by right.” (This has changed in the past year thanks to the recently passed state MBTA Communities law, which requires communities served by the region’s mass transit system to create a district allowing “by right” multifamily housing.) When multifamily housing is not permitted by right, any proposed multifamily housing, on private or public land, must go through a lengthy public review process. Depending upon the community, this can include review by zoning boards, planning boards, city councils, and town meetings, among other entities. These processes offer ample opportunity for the public to comment on proposed developments—and, due to the well-documented unpopularity of housing development—consequently to stop or delay development. Opponents can even pursue lengthy and expensive litigation to further delay unwanted developments, despite recently passed Massachusetts legislation to limit such actions. Places with more regulations and lengthier development processes unsurprisingly produce less housing, making the existing stock more expensive.⁵⁹

This development process is even lengthier on publicly owned land. Unlike projects that are on privately owned land, the sale and development of publicly owned parcels is governed by state procurement law, Chapter 30B.⁶⁰ These requirements are in place to prevent corruption; they make it extraordinarily difficult for a city to, for example, give a favored developer a sweetheart deal in the sale of city-owned land. But, they also create significant additional regulatory burdens for any housing proposal on public land.

SURPLUS LAND

A town that wants to dispose of municipally owned land must first declare the land “surplus,” indicating that the municipal government no longer needs the land for its original purpose. The initial declaration of “surplus” land comes from the board or commission that controls the land. So, a school district might declare a former school building “surplus” if enrollments had declined such that the municipality no longer had use for the existing structure. A town may also declare newly purchased land “surplus” if it was purchased with the intent to build, for example, affordable housing with a private developer. The local legislative body, most often either a town meeting or city council, must then approve the declaration of the land as “surplus.” Such approval requires a two-thirds majority of the city council and town meeting—a formidable obstacle in many communities.⁶¹

REQUEST FOR PROPOSALS

Once the land is declared “surplus,” the city or town must then solicit bids to dispose of the land through a Request for Proposals (RFP) in order to sell the land to a housing developer (or any other entity). The RFP process is challenging for local communities. They must outline a fairly specific use for a parcel *without consulting with developers first*. Indeed, consulting with a developer prior to releasing a RFP would make that developer ineligible to submit a bid under procurement law. This means municipalities must guess what developers will find financially feasible or realistic for a particular parcel. Many communities, especially smaller ones, may lack the capacity and expertise to pull together a suitable RFP that both meets city and town aims while attracting multiple competitive bids from developers.

Andrea Harris-Long, the Manager of Housing and Neighborhood Development at the Metropolitan Area Planning Council (MAPC), notes, “Developers have more expertise in knowing what to look for in a parcel—often more than municipal officials drafting an RFP.” Harris-Long says that cities and towns are frequently overly optimistic about the extent to which public land makes a project financially viable: “City and town officials think, we’re giving [the developer] land, we have to require several community benefits. But it doesn’t actually always pencil out, particularly when the goal is to maximize the amount of affordable housing.” Consequently, cities and towns sometimes put out RFPs that fail to attract any bids. As a workaround, some communities have to add another step to this already slow process: They first publish a Request for Information (RFI) prior to an RFP to simply learn more about what developers might like to build (or think is feasible to build) on a plot. In addition to using RFIs, cities and towns often hire a planning or architecture firm to determine realistic site programs to include in an RFP (sometimes funded through planning technical assistance grants from state housing agencies or regional planning agencies like MAPC).

These technical assistance projects can draw from development engagement in other planning projects and often include a financial feasibility analysis testing various development scenarios. This can help ensure the RFP is practical for current market conditions.

The RFP process is not just burdensome for local governments. It also creates a (sizable) additional layer of review for developers, on top of the already lengthy regulatory process to which multifamily housing is subject in most communities. While it varies depending upon the RFP, developers frequently go through a thorough project review prior to being approved to purchase the land—at which point they must go through an entirely separate (and extensive) permitting review process for multifamily housing. This means that, for many housing developments on public land, design review takes *significantly* longer than the actual construction of a project.

A small affordable housing development in Weston helps to illustrate some of these challenges. In 2018, the town of Weston acquired a parcel at 1-11 Wellesley Street to build new affordable housing. Six years later, construction on affordable housing has not yet begun. Instead, the developer, Habitat for Humanity, is having final meetings with the Commonwealth’s Executive Office of Housing and Livable Communities (EOHLC) as part of the Chapter 40B process before submitting their final Marketing Plan, Calculator, and Regulatory Agreement for Approval. They are also making small updates to their building plans prior to submitting a building permit because Weston adopted the Specialized Code, a new, more energy-efficient building code, on July 1, 2024.

The project that Habitat is proposing is not especially large in scope, comprising only six units of affordable housing. Moreover, town officials and members of the community appear to be uniformly supportive. This strong town support stands in contrast to formidable public opposition to other housing developments in Weston, most notoriously a long-delayed 200-unit affordable housing project at 518 South Avenue known by community opponents as the “Weston Whopper.”⁶² So, why has it taken six years to even start construction on six units of housing on publicly owned land? The answer largely lies in the regulatory process.

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The Habitat project is being approved as a “friendly” Chapter 40B in partnership with the town. Chapter 40B is a state law that allows projects that are at least 25 percent affordable to bypass some local zoning and land use regulations if the town’s total affordable housing stock is less than 10 percent. At 3.78 percent affordable, Weston’s housing stock falls well below this threshold. Under the Local Initiative Program (LIP), also known as a “friendly” 40B, the developer works with the town first on a proposal prior to applying to the state under the 40B statute. This is different than more traditional 40Bs, where developers apply to the state—often in sharp conflict with the municipal government’s preferences.

While on its face the 40B process offered more streamlined development procedures, the developer still faced many hurdles. Once Habitat was selected as part of the RFP process—which required them to go through an initial design review process—it still had to produce, among other documents, a stormwater report,⁶³ a grade plane and allowable building height calculation,⁶⁴ a traffic study,⁶⁵ and a grading and utility plan.⁶⁶ While the exact nature of requirements will vary from town to town, these types of requirements are typical of multifamily housing permitting. In addition, the LIP process required its own set of complex paperwork.⁶⁷ While developing on sensitive wetlands naturally involves additional regulation and permitting, the multilayered requirements imposed by both the Weston Conservation Commission and the Environmental Protection Agency create a burdensome process.

This process is by no means limited to Weston. Indeed, each local government across Massachusetts has its own unique regulatory process, creating a patchwork of design requirements. Developers working across these jurisdictions must come up with different architecture and design plans for each community, and face uncertainty as to whether or not their plans will be approved each time they submit a proposal. This stands in sharp contrast to the other parts of the country, like Texas, where a less discretionary review process allows for the easier development of larger numbers of housing units.

In short, standard development permitting processes combined with additional requirements for projects on public land make the construction of new housing a lengthy and expensive process in Massachusetts communities. These burdens are especially stark for smaller affordable housing providers who may lack the staffing and resources to navigate the complex and fragmented regulatory environment.

2 Public Opposition

The development of public land becomes even thornier when members of the public, and their elected/appointed representatives, are opposed to proposed housing developments. Reams of academic and policy research reveal that housing of all types is hampered by public opposition.⁶⁸ People shun development for all types of reasons; some abhor changes in the physical structure of their communities, while others fear that new housing might bring people from socioeconomically or racially different groups. Opposition need not be large; the discretionary development review process in most communities in Massachusetts (and, indeed, in most high cost metropolitan areas nationally) means that very small groups can effectively stop or delay development at public meetings or through litigation.⁶⁹

When asked about the biggest obstacle she encounters when supporting towns and cities redeveloping public land, Laura Shufelt, the Director of Community Assistance at the Massachusetts Housing Partnership, succinctly said, “Neighbors. Neighbors that are empowered by leaders who caved to neighbors. It’s not even that many.” Shufelt notes, “Some communities you won’t get any applicants for an RFP because there’s so much opposition.”

A. ELECTED APPROVAL BODIES AND REFERENDA

Elected approval bodies, such as the Select Board, Town Meeting, and community referenda are especially vulnerable to capture by vocal development opponents. Unfortunately, approval from these bodies is often required for the disposition of public land. This is different than other types of multifamily housing developments, which mostly (though not always) receive their permits and variances from unelected planning and zoning boards. In other words, public projects face additional veto points compared to proposals on private land—veto points that are particularly susceptible to vocal opposition. Failed/delayed housing projects in Northborough and Winchester help to illustrate the ways in which these elected entities can stymie development.

In 2016, the town of Northborough (with Town Meeting’s approval) purchased and maintained the White Cliffs Mansion using \$2.4 million in Community Preservation Act (CPA) funding.⁷⁰ After a committee determined that the building would require at least an additional \$6 million in investment to function as a public building, the town sought outside investors.⁷¹ In 2023, the White Cliffs Committee evaluated three bids received as part of the RFP process; they ultimately chose housing development featuring 52 units, all affordable.⁷²

But, in order to receive necessary permits, the project required both Select Board and Town Meeting approval because it was sited on publicly owned land. Almost immediately, organized public opposition targeted these two governing bodies. One abutter started a petition opposing the project which was quickly signed by 250 residents.⁷³ In May 2023, the Select Board opted not to move forward with the proposal. They cited significant neighborhood opposition and the overwhelming likelihood that the project would not be able to get majority support at a future Town Meeting vote.⁷⁴ Select Board member Kristen Wixstea observed: “There’s a lot of fear around this building.”⁷⁵ As of 2024, the Town Offices Feasibility Study Committee recommended that the mansion be used as a new Northborough Town Hall.⁷⁶

A Winchester referendum proved a similarly challenging obstacle to housing development on public land. In 2018, Winchester’s Select Board authorized the sale or lease of Waterfield Lot, a publicly owned approximately one-acre parking lot next to the Winchester Central MBTA Commuter Rail Station, for affordable housing.⁷⁷ In 2019, they put out a Request for Qualified Developers and in 2021, the Town voted to authorize the Select Board to enter into a land development agreement with Winchester Waterfield MM LLC (a subsidiary of Civico Development LLC).⁷⁸ The proposal included a commercial space as well as 60 units of mixed-income housing (50 percent as studio and one-bedrooms, and two- and three-bedrooms), with at least 25 percent deed-restricted affordable units. Opponents cited the loss of parking as well as parking revenue (about \$15,000/year).⁷⁹

Shortly thereafter, a citizen’s petition triggered a referendum to reconsider the article, and with about 32 percent voter turnout, the project was halted with only 67 more votes (2 percent) in opposition to the land development agreement.⁸⁰ The Waterfield Lot Task Force was subsequently formed and identified three areas of opposition to the project: reduction in public parking, affordable housing ratio, and revenue for the town.⁸¹ In response to this report, Civico returned to the city with a new plan to increase the number of public parking spaces to 70 (only down 17 from what currently existed), remove the commercial space, and increase the percentage of affordable units (while keeping the total number of units the same). They also proposed tearing down the Chamber of Commerce to make more parking.⁸² In June of 2022, the Town entered into a Land Development Agreement after a close two-thirds vote by Town Meeting Members.

In the final approved plan, 40 of the 60 units will be for individuals making at or below 60 percent of the Area Median Income, and the town seeks to impose a local preference on 70 percent of the units. While it appears that Winchester, unlike Northborough, will produce affordable housing on this publicly owned land, the process to produce 60 units of housing will take at least 6+ years as of the writing of this report.

B. WEAPONIZATION OF PUBLIC LAND

Public opposition to housing is so extreme in some communities that public land has become weaponized as a tool to stop housing development, rather than an opportunity to subsidize affordable housing. Using a database of public property, the Registry of Deeds, and newspaper archives, we identified 13 different instances in which local governments purchased land expressly to stop a housing development since 2010. These purchases totaled over \$50 million in public funds. Table 1 shows these purchases.

The first three columns list the municipality, the purchase year, and purchase price of the land. The latter three columns identify three different funding mechanisms that could be utilized to purchase the land: Community Preservation Act (CPA) fund, other state funds (such as state grant programs), and debt exclusion votes where the voters of the municipality voted in favor of a bond to finance the purchase. These mechanisms are discussed in more detail below.

TABLE 1. LIST OF PUBLIC LAND PURCHASES TO STOP HOUSING DEVELOPMENTS. 2010-2024

TOWN NAME	PURCHASE YEAR	PURCHASE PRICE (in millions)	CPA FUNDS USED?	STATE FUNDS USED?	DEBT EXCLUSION VOTE?
Ashland	2018	\$3.5m	Yes	No	Yes
Billerica	2020	\$3.0m	No	No	No
Dover	2017	\$5.5m	No	No	Yes
Duxbury	2020	\$2.2m	Yes	No	No
Hingham	2013	\$3.7m	No	No	No
Marblehead	2014	\$1.5m	No	Yes	Yes
Norwood	2017	\$13.0m	No	No	No
Peabody	2023	\$7.2m	Yes	Yes	No
Quincy	2020	\$5.0m	Yes	No	No
Scituate	2021	\$2.0m	Yes	No	No
Scituate	2010	\$1.9m	No	Yes	No
Sudbury	2015	\$2.9m	Yes	No	Yes
Wellesley	2018	\$3.5m	No	No	No

In every one of these communities, we were able to identify a specific housing proposal or threats of housing development to which the town was responding. In total, we were able to identify 1,028 housing units blocked by city and town land purchases. This number is a conservative estimate: In several communities, we were unable to find specific proposals—only concerns about vaguer development proposals with unspecified numbers of housing units or the possibility of a future development proposal.

In virtually all communities (except Quincy), the proposed housing development was a Chapter 40B project. As mentioned in a previous section, Chapter 40B is a state law that allows developers to bypass some local zoning and land use regulations if: (1) Less than 10 percent of the local community's housing stock is affordable; (2) at least 25 percent of units in a proposed project are affordable. Communities facing a 40B project that complies with state requirements have little legal recourse to block an unwanted development other than purchasing the land themselves.

The anti-housing motivation for these purchases was intense, widespread, and extraordinarily explicit in many cases. In Marblehead, for example, the town was originally offered the Lead Mills site as a gift; the town declined the land due to environmental contamination. But, a developer then secured approval to place a 44-unit Chapter 40B housing development on the land, leading the town to explore options to purchase the land in 2012.⁸³ Town Planner Becky Curran said in local media coverage that the town would struggle to stop 40B developments on the land once the housing market improved.⁸⁴ Ultimately, Marblehead spent \$1.5 million in public dollars for land it had once been offered for free in order to stymie a housing proposal.

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In Ashland, a proposed 140-unit Chapter 40B housing development at the Valentine Estate property provoked similarly vociferous neighborhood opposition. One abutter, Robin Hicks, said of the project in local media coverage, "It's an insult to the citizens of Ashland. I have never seen such an atrocity."⁸⁵ In 2018, town residents voted to assume extra debt to purchase the property from the developer for \$3.5 million. The town is clear on its own website that this purchase was for the express purpose of stopping housing from being built: "The Valentine Property was purchased in 2018 as both a way to stave off the development of 120 units of housing on a 7-acre property, and at the same time preserve this historical asset for future use."⁸⁶

The Dover Board of Selectmen cited comments from dozens of residents concerned about a proposed 40-unit Chapter 40B condo development in their 2014 vote to purchase 27 acres at Springdale Farm for \$5.5 million.⁸⁷ Reflecting strong community support for these purchases, all parcel acquisitions that we identified were approved by legislative bodies (either city councils or Town Meetings), and four required debt exclusion votes, meaning that a majority of participating voters agreed to take on additional local debt to stop a proposed housing development.

These public dollars came from a variety of sources. Nearly half (six) of the cities and towns we identified used Community Preservation Act funds. Passed in 2000, the Community Preservation Act is ostensibly a smart growth tool. Cities and towns that adopt the CPA through a ballot referendum are allowed to raise community preservation monies through a surcharge no greater than 3 percent of the tax levy against real property. The state also provides additional resources to communities that have adopted the CPA through its Community Preservation Trust Fund.⁸⁸ CPA funds are allowed to be used for a variety of preservation projects, including greenspaces, historic preservation, and affordable housing. Given the CPA's ostensible aim of supporting the production of affordable housing, the use of CPA dollars to block affordable housing developments suggests that local governments may, in some cases, be using these state-subsidized funds in ways contrary to program aims. Several communities also used state grants (Peabody, Marblehead) and money from the MBTA (Scituate) to combat housing developments.

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None of these parcels of land have gone on to produce additional housing units. In a few cases, properties purchased by a municipality have been sold for commercial development, allowing the city or town to recoup costs. For example, Norwood purchased the Forbes Hill property in 2017 for \$13 million in response to a 40B proposing 300 units of housing.⁸⁹ The city remained ostensibly open to a smaller housing development; the Forbes Hill Task Force recommended a Zoning Overlay District (approved by the Board of Selectmen) which

capped housing developments at 175 dwelling units with no more than 25 dwelling units per acre. The zoning also allowed for life sciences, biotech research, development, manufacturing, research, and development facilities.⁹⁰

In 2019, the Town received and approved a buyer (Dr. Roberto Feliz) who offered \$13 million to build a \$260 million medical facility, conference center, and 80 housing units.⁹¹ Feliz was ultimately unable to pull together

the project's financing. By 2021, Norwood went through a second round of bidding and awarded the bid to Continental Properties with a \$13.5 million proposal for housing rental units. This round of bidding ended in a lawsuit from Pulte Home Construction Group, another developer who had submitted a proposal, halting the process.⁶⁶ According to the Town Manager Tony Mazzucco, "We finally heard back from the court a few weeks ago after a year and a half. It turns out that there were technical difficulties in the bids from all three developers, including Pulte Homes and Charles River Realty."⁹² After four years of ownership, the Town had paid \$935,051.71 in interest payments, and \$214,000 in cumulative maintenance and utility costs. Some but not all of these costs were recouped after the Town received non-refundable deposits from prospective bidders.⁹³

The Town put the property up for sale for the third time for \$16 million and by the end of the year Moderna purchased it for \$22.5 million to expand its two building campus already in Norwood.⁹⁴ As part of this deal, the Town entered into its third tax-increment financing agreement with Moderna for 10 years of tax-exemptions.⁹⁵ This totaled over \$9.1 million tax savings for the company.⁹⁶ Town Meeting members also eliminated the previous Forbes Hill Mixed Use Overlay District with a new 158-acre Life Sciences Development District. This new zoning prevents housing on the property.⁹⁷

In most of the above-listed cases, however, properties have either been left vacant or used for city/town buildings. This means that these parcels of land often imposed sizable financial burdens on these cities and towns, and provoked significant debate in the town about how to recoup costs. Ashland purchased the Valentine Estate in 2018 for \$3.5 million. Eight years later, it is still responsible for the (significant) costs of the property after rejecting the sole bid to stem from the town's 2020 Request for Proposals. Among other expenses, the town has allocated \$1.5 million for the preservation of the property's barn.⁹⁸ In 2023, Peabody opted to purchase an 80-acre parcel in South Peabody using Community Preservation Act funds, community development grants, and loans.⁹⁹ Jason Panos, a land-use attorney and former Peabody Planning Board member warned that the city was assuming costs that it could not afford in purchasing the land: "The city doesn't have the funding to make that into a park or whatever they want to do with it. That's the kind of place that requires a developer with a lot of cash on hand to invest in revamping the land."¹⁰⁰ In Dover, the town tried to recoup the costs of its hefty \$5.5 million Springdale Farm land purchase in 2017 by selling the house on the land with significant conservation restrictions attached. It ultimately selected a buyer who paid just over \$2 million for the home, which has to remain a single-family dwelling. The remaining 23 acres of the property remain under the jurisdiction of the town's Conservation Commission, which leaves the town managing maintenance expenses.¹⁰¹

POLICY RECOMMENDATIONS

While the challenges to building new housing on public land are formidable, they are not insurmountable. What’s more, the ample amount of land available suggests an enormous untapped opportunity to ameliorate the Boston region’s housing shortage and astronomical prices. Below, we outline several proposed policy changes that would allow Greater Boston to better use the untapped potential of publicly owned land to address the region’s crippling housing crisis.

1 Streamline the process for the disposition of public land.

The bureaucracy surrounding the disposition of public land on top of the normal housing permitting process makes converting public land into housing an expensive, multiyear task. Through the Affordable Homes Act (passed in August 2024), the state has already taken first steps to remedy this problem on state-owned land. In particular, the new law: (1) provides significant funding (\$30 million) to support the disposition of Commonwealth-owned public land and (2) streamlines the permitting process development of new housing on state-owned land. Specifically, the law requires housing developments as of right at a density of at least four units per acre, though it allows towns to continue to impose “reasonable regulations” such as setbacks, open space requirements, and site plan review.¹⁰²

The Commonwealth should build upon these efforts by requiring greater allowable density on state- and municipally-owned land—ideally far more than the relatively low four units per acre currently included in the Affordable Homes Act. In addition, the Commonwealth should not permit towns to impose separate so-called “reasonable regulations.” Regulations on bulk, height, lot area, and setbacks make it harder to build new housing, and are drivers of higher housing costs. Massachusetts should set clear and reasonable universal standards that towns and cities must comply with.

Finally, the Commonwealth should reduce the number of veto points housing projects on public land must surmount. First, under current laws, local governments must receive approval from a two-thirds majority legislative bodies (either Town Meeting or the City Council) in order to declare public land surplus—a required step prior to the disposition of public land. This step can prove extraordinarily challenging, especially in Town Meeting communities. Massachusetts should consider exempting these reclassifications from Town Meeting votes if land is being transferred to a town’s Affordable Housing Trust for redevelopment into affordable housing. It should also consider requiring a simple majority vote, instead of a two-thirds majority.

Second, under current procedures, developers essentially have to go through a full design and site review process twice: first, when submitting a bid in response to a RFP, and second, when receiving required permits and variances from local planning and zoning boards. The Commonwealth should require cities and towns to allow affordable housing developments on public land to be exempt from this second round of discretionary review if they have already been approved as part of an extensive RFP process.

2 Reform state-level funding programs like the Community Preservation Act so that they cannot be used to block housing development, and are instead used for their intended purpose—the development and preservation of affordable housing.

The Commonwealth should take steps to limit local governments from using laws designed to promote affordable housing, like the Community Preservation Act, to block new housing. There are a number of potential options for reforming the CPA. First, the state might restrict communities in which less than 10 percent of the housing stock is affordable from using CPA funds for any purpose other than the production of affordable housing. Second, the Commonwealth could require all municipalities to produce affordable housing at some benchmark level in order to qualify for CPA state matching funds. Third, Massachusetts could ban any communities that use CPA funds to block affordable housing from receiving CPA state matching funds for some set period of time, such as five years. The Commonwealth’s new Office of Fair Housing might play an important role in monitoring the use of CPA funds.

3 Provide technical assistance for municipalities looking to redevelop public land into affordable housing.

The process of redeveloping public land into affordable housing is extraordinarily complicated. Municipal governments may not be familiar with the process, and likely do not know what is financially feasible (or possible) on a given parcel of land. Technical assistance from the state government and regional planning agencies could help support cities and towns in determining what is possible on a given plot of land—and prevent governments from overestimating the value of public land or putting barriers in place that make the construction of much-needed affordable housing impossible.

4 Streamline the housing permitting process through additional zoning reform, such as a statewide affordable housing overlay.

The process by which *all* housing is built—on publicly and privately owned land—is too onerous. The Commonwealth is already well aware of this problem and has taken encouraging steps to remedy it through the MBTA Communities law and Affordable Homes Act.¹⁰³ Both of these laws, along with Chapter 40B, either (1) require local governments to reform their zoning laws and land use regulations to allow for the development of more housing or (2) allow developers to bypass certain local zoning laws and land use regulations. Massachusetts should continue to vigorously enforce these laws and consider new opportunities to require local governments to streamline their local development processes and allow for the construction of much-needed affordable and market-rate housing. While MBTA-C, 40B, and the Affordable Homes Act are helpful first steps in addressing the region's housing shortage, they only apply in limited circumstances. One such solution might be a statewide affordable housing overlay that goes beyond Chapter 40B, and allows developers producing much-needed affordable housing to bypass local zoning restrictions statewide.