

40B Overview

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What is 40B?

- Adopted in 1969 and also referred to as the “Comprehensive Permit Law” or the “Anti-Snob Zoning Act”.
- 40B enables local Zoning Boards of Appeal (ZBAs) to override zoning and approve housing developments under flexible rules if at least 20-25% of the proposed units have long-term affordability restrictions.
- 40B encourages a minimum of at least 10% of a community’s total housing units to be considered affordable.
- Communities that meet this threshold, or other safe harbor provisions, have greater discretion in approving or denying comprehensive permits.

What is 40B's Impact



Chapter 40B has supported almost all affordable housing construction in Massachusetts outside of the Commonwealth's largest cities since the statute was enacted in 1969.

Approximately 70,000 total units have been produced, of which over 35,000 units are restricted to households making less than 80% area median income (AMI).

	Total Units	Market	Affordable
Rental	17,646	12,890	4,756
Homeownership	31,089	19,712	11,377
Total Units	51,720	34,818	16,902

Most 40B developments in recent years originate in the private market and are characterized by a mixed-income approach to housing development where typically 75% of the units are market rate.

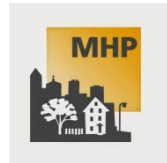
STATE SUBSIDIZING AGENCIES

There are four state subsidizing agencies authorized to issue project approvals under Chapter 40B and charged with project oversight.



Department of Housing and Community Development (DHCD)

Oversight of the 40B regulatory framework, guidance, and the “friendly 40B” process (LIP) & projects funded under LIHTC or other capital funding



Massachusetts Housing Partnership (MHP)

Oversight for projects for which MHP makes a loan



MassDevelopment

Oversight for projects for which MassDevelopment makes a loan

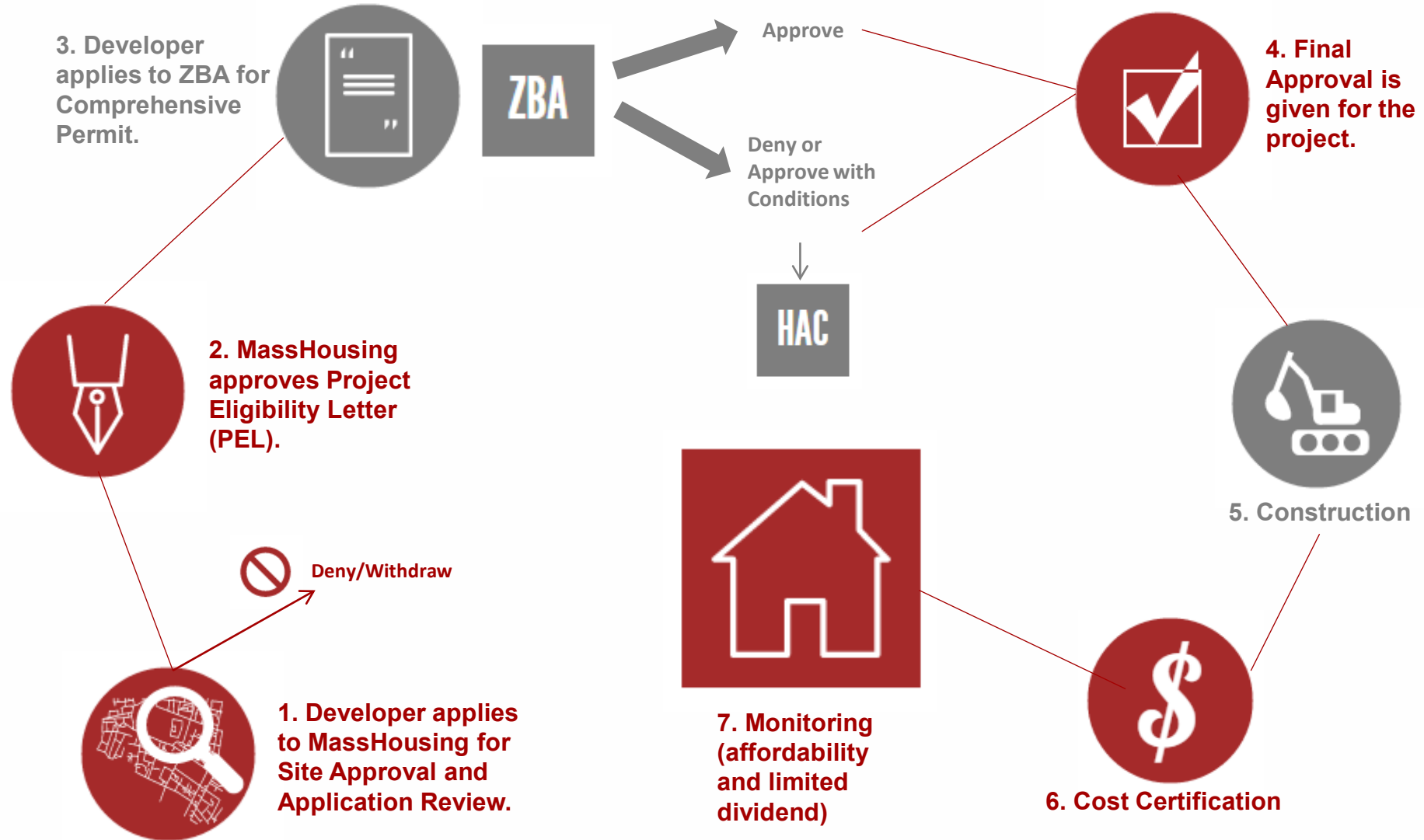


MassHousing

Oversight for projects for which MassHousing makes a loan as well as for projects funded by member banks of the Federal Home Loan Bank of Boston (FHLBank Boston) under the New England Fund (NEF) Program



40B PROCESS



Affirmative Fair Housing Marketing Plan

- All units that are intended to go onto the ***Subsidized Housing Inventory (“SHI”)*** must be marketed under an approved Affirmation Fair Housing Marketing Plan
- The plan requirements are detailed in DHCD’s 40B Guidelines, Section 3.
https://www.mass.gov/files/documents/2017/10/10/gui_decomprehensivepermit.pdf
- These guidelines apply to all activities from outreach and marketing to resident selection and occupancy.
- Developer’s responsibility to follow guidelines.
- DHCD 40B Guidelines, HUD Occupancy Requirements (4350.3), Fair Housing Requirements

Application/Resident Selection Process

- Open Application Period
- Review Applications
- Lottery
- Consider Preferences (Local, Accessible, etc.)
- Select Buyers

Home Buyer Eligibility

- Income Limits – For all projects
- Based on Area:
http://www.huduser.gov/portal/datasets/il/il15/area_definitions.pdf
- Based on the number of persons per household
- Income Definitions
 - 30% Extremely low income
 - 50% Very low income
 - 80% Low income (is not arithmetically determined from the others)
- Asset Limits - \$75,000 maximum, *plus \$200,000 for age-restricted projects*
- First Time Homeowner

Additional Requirements

- (a) Down payment must be at least 3% of the purchase price, at least half of which must come from the buyer's funds unless the Eligible Subsidy Program permits a smaller down payment.
- (b) Mortgage loan must be a 30-year fully amortizing mortgage for not more than 97% of the purchase price with a fixed interest rate that is not more than 2 percentage points above the current MassHousing interest rate (www.masshousing.com).
- (c) Monthly housing costs (inclusive of principal, interest, property taxes, hazard insurance, private mortgage insurance and condominium or homeowner association fees) shall not exceed 38% of monthly income for a household earning 80% of area median income, adjusted for household size.

Affordable Housing Restriction

- Primary Residence
- Resale Price Calculation
- Survives Foreclosure
- Monitoring Agent Approval
 - Refinance
 - Capital Improvement

Questions

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