



# Affordable Housing Alert

## Developments in affordable housing law

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## Decision to repeal the affordable housing law on November ballot

*By Jeffrey W. Sacks*

In November, Massachusetts voters will decide whether to preserve or repeal the Massachusetts affordable housing law, also known as the Comprehensive Permit Law or simply Chapter 40B. This campaign is shaping up to be a referendum on the overall importance of affordable housing in our state, not just about the affordable housing law. A loss in this effort will be harmful to the creation and funding of all kinds of affordable housing developments in Massachusetts.

### Effect of repeal

If the ballot initiative passes, the affordable housing law would be repealed effective January 1, 2011. A “no” vote in November will preserve the affordable housing law.

Passage will invalidate all Chapter 40B permits that have not been exercised by obtaining a building permit for at least one unit by January 1, 2011. Developers will only have a two-month window for obtaining a building permit and, therefore, should be preparing now to protect permits that have already been granted but have not yet been exercised. Following repeal, organizations intending to build housing that includes affordable units will no longer be able to apply for a single comprehensive permit from a local zoning board and will lose the ability to appeal an adverse local decision to the State Housing Appeals Committee. Without the affordable housing law, it will be very difficult to develop multifamily housing or small homes on small lots in most parts of Massachusetts because of the lack of appropriate local zoning.

### The Campaign to Protect *the* Affordable Housing Law

The Campaign to Protect *the* Affordable Housing Law has been organized to fight this ballot initiative. The Campaign is a diverse coalition consisting of civic, business, and religious leaders; academics; senior and disability organizations; housing and civil rights advocate; affordable housing residents; and municipal officials.

The Campaign’s website, [www.protectaffordablehousing.org](http://www.protectaffordablehousing.org), provides a wealth of information about the Campaign’s efforts to maintain the affordable housing law. The Campaign is hosting a community fundraising event and rally on Tuesday, June 22, 2010, at Fenway Park—State Street Pavilion (20 Yawkey Way) from 5:30 p.m. – 7:30 p.m. In addition, the Campaign has developed a [Facebook](#) and [Twitter](#) page to allow supporters to easily share information with colleagues and friends.

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The affordable housing law grants local Zoning Boards of Appeal (“ZBAs”) the ability to grant a single comprehensive permit under flexible zoning and land use regulations for housing developments where at least 20–25% of the units have long-term affordability restrictions. The developments must also comply with all state environmental laws and cannot include any features that jeopardize public health or safety. Developers’ profits are also regulated under this program. If a ZBA rejects a building proposal, the developer may appeal the decision to the Housing Appeals Committee but only if the community in which the project is located has less than 10% of its housing stock designated as affordable housing. Accordingly, the affordable housing law incentivizes towns and cities in the Commonwealth to provide at least 10% of their housing supply as affordable housing.

To date, according to the Campaign, approximately 58,000 homes have been built pursuant to the affordable housing law, including single families homes, condominiums, townhouses, and rental apartments. As of April 2010, 51 communities have exceeded the 10% threshold and an additional 40 communities are at 8 or 9%. Over the last decade, the affordable housing law has been responsible for 80% of new affordable housing outside the Bay State’s largest cities.

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