RE: Town of Cohasset Comment Letter - Draft Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act

Dear Secretary Kennealy,

Please accept this comment letter on behalf of the Town of Cohasset regarding the Draft Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act.

The Town of Cohasset commends the Commonwealth for efforts to expand opportunity and reduce barriers to housing development. The Town of Cohasset has been proactively planning to meet housing needs and goals identified in our 2020 Housing Production Plan (HPP) and 2019 Cohasset Master Plan. Both the Cohasset Affordable Housing Trust and Affordable Housing Steering Committee have made great strides in recent history advancing projects and initiatives intended to diversify our housing stock and meet the needs of residents of all demographics. The Town has been in compliance with Ch40B for the last several years with a current Subsidized Housing Inventory (SHI) stock of 10.59% of year-round housing units per the 2010 census figures. We have an additional 41 units to be deed-restricted for SHI eligibility spread across various locations in Town that are either in active construction or in the permitting pipeline.

The Town of Cohasset continues to pursue its goal of affordable housing, including by funding our Affordable Housing Trust through land and money. We appreciate there are demands for varied, accessible housing, including for our aging generations, families at lower-income levels, and others, including those who work in and for our Town. Despite our mutual goal of fostering more affordable housing, Cohasset is concerned about the compliance criteria for compliance under MGL Ch40A, Section 3A as defined in the DHCD draft guidelines. We also believe the guidelines may lead to unintended effects that inhibit the goals of fostering more affordable and accessible housing. While the Town of Cohasset supports the objectives of affordable and multifamily housing in the Housing Choice legislation, the proposed regulations are “outsized” relative to a small community such as Cohasset. We respectfully ask that any revised DHCD regulations address the concerns of communities with a populations in the lowest decile of MBTA communities.

The following key points illustrate our rationale for concern:

**Infrastructure Constraints:** The Town does not have water and wastewater capacity for the level of growth that would be required for compliance under the draft guidelines. Our 2020 HPP identified applications for state funding that can aide in planning and funding capital projects to implement HPP priority strategies, recognizing that future growth as our community had strategically planned for would need increased capacity in these areas. The increased burden of the level of growth under these regulations above and beyond what the Town had planned for in our HPP exacerbates this need. The effect of noncompliance bars municipalities from the very State funding programs that are critical for implementing the growth mandated by this statute and seems counterintuitive to the very intent of this legislation. The Town applied for capital funding in 2018 for sidewalk improvements along Route 3A and in 2019 to support water and sewer infrastructure on a potential development
site but did not receive funding in either year. These two scenarios exemplify the challenges Cohasset faces in funding infrastructure needs that would be necessary for the development required by the draft compliance guidelines.

**Minimum unit count requirement of 750 units:** 750 units well exceeds the 15% Commuter Rail Community category requirement and has potential to result in an unprecedented exponential population growth rate that would overstress Town services and infrastructure capacity. According to our 2020 HPP, the number of households in Cohasset has increased by 276, or 10.3%, since 2000. At the time, MAPC projected an increase in the number of households living in Cohasset in the coming years, rising to 3,750 households in 2030, an increase of 801 households across the entire community over 14 years. The addition of 750 housing units in one geographic area in a potentially condensed time frame presents demands upon the Town’s infrastructure and services, such as water and sewer, as discussed below. Such a large-scale impact is is incompatible with the scale of our community growth plans set forth through extensive community engagement and consultation with planning professionals during our HPP process.

**Feasibility study requirements:** The level of detail required to prove legal and practical development feasibility of each parcel in the initial 0.5-mile radius district and beyond will require significant effort by the Town to build this model. We do not have the in-house capacity to conduct this level of data collection, particularly in the condensed timeframes set forth by the guidelines. We are concerned with level of funding and technical assistance to be offered to communities to aide with this process, as we have seen in many scenarios with State grant applications where the requests far outpace the available resources. Without adequate State-funded resources, there will be a significant financial burden placed upon the Town for consulting and legal expenses required to conduct this research necessary as currently defined by the guidelines. Furthermore, private developers should carry the burden of providing details on title restrictions and build-out analyses for privately owned land, as they typically do today. The requirement for municipalities to unlock the blueprints for private benefit contrasts with standard development practice undertaken by our local permitting boards. DHCD’s guidelines represent a significant deviation as to how private housing development costs and associated profits are typically allocated, with a disproportionate burden falling on scant municipal resources.

**District size:** Upon initial analysis of the 0.5-mile radius surrounding the Cohasset MBTA Commuter Rail Station, it is evident that the majority of this land is inadequate for compliance as the radius encompasses land in a neighboring municipality, open space, wetlands, a golf course, and a cemetery. Expansion beyond the district, while we imagine potentially achievable along our Route 3A corridor, would encounter additional barriers to feasibility due to safety and access challenges in existing, or lack-thereof, multimodal and pedestrian connections. Further, Cohasset has not been successful in the past in advocating to the state for certain safety and accessibility updates to Route 3A, such as traffic lights at dangerous intersection. Thus, the state’s ownership of Route 3A provides further practical barriers to enhancing connections from an expanded district to the Cohasset MBTA Commuter Rail Station.

**Smaller MBTA Communities:** It is worth noting that the the Town of Cohasset is in the second lowest decile of MBTA population with a 2020 population of 8,381 ranking 125 out of 154 MBTA communities by size. The average MBTA community population is over 3x the size of Cohasset. To smaller communities, the minimum number of units of 750 is a significant premium to the 15% required by larger the Commuter Rail Communities.

**Unintended Effects:** The guidelines do not require any affordability requirements and thus, the contemplated as-of-right requirements may result in (more) dense luxury units that do not advance the goals of affordability. Cohasset has been working hard to increase and fund more affordable housing, but the costs of planning, researching and addressing what may ultimately be many new market rate units may inadvertently slow, if not halt, the growth of the Town’s affordable housing efforts.
We urge you to consider amending the draft guidelines to allow for increased flexibility based upon community characteristics and identified long-range plans. In addition, we request an extension of the timelines for compliance to give communities an opportunity to conduct the necessary due diligence and planning to succeed. This type of zoning amendment will require significant community engagement and consensus building prior to initiating Town Meeting warrant processes to be successful.

We understand this legislation intends to play a prominent role in solving the housing crisis in Massachusetts, we are happy to engage with you to discuss how to revise draft guidelines to allow for communities of smaller scale like Cohasset to identify a path to compliance that is realistically attainable and in accordance with identified community growth goals.

Thank you for your consideration.

Sincerely,

The Town of Cohasset Select Board

CC via email:

Senator Patrick O'Connor
Representative Joan Meschino

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Town of Cohasset Select Board
By Its Members:

Keri Thompson, Chair

Corey Evans, Vice Chairman

Jean Healey Dippold, Clerk

Diane Kennedy

Jack Creighton

Dated this 29th day of March, 2022