

MBTA housing act sees push-back in Peabody, Ipswich

[By Caroline Enos | Staff Writer](#) October 14th, 2024

The fight over the state's MBTA Communities Act is heating up on the North Shore.

The act, known as 3A, is so far the largest attempt by the state to address Massachusetts' current housing crisis.

Brought about by the Baker-Polito administration and revised several times under Gov. Maura Healey, it requires all cities and towns receiving MBTA service or abutting a community that does to adopt at least one zoning district allowing multifamily housing by right. Such districts also must meet the state's criteria for 3A zones.

Communities that don't comply could lose millions of dollars in state grants. But a lawsuit heard before the state's Supreme Judicial Court last week could challenge 3A's authority and the state's ability to enforce it.

Attorney General Andrea Campbell filed the suit against the town of Milton after the town voted to reject 3A in February, making Milton the first community to be formally disciplined by the state over the issue. If Milton wins the lawsuit, the entirety of 3A's enforcement could come into question.

With the lawsuit still before the courts, residents in Ipswich and some city councilors in Peabody are calling for their communities to pause the 3A process until a ruling is issued, or even still reject 3A zoning altogether.

Councilors concerned in Peabody

Peabody city councilors were presented with a proposed overlay district Thursday night that would allow multifamily housing by right and with few restrictions. The proposed district spans between Route 1 off Dearborn Road and I-95, said Curt Bellavance, director of community development in the city.

That area sits in the city's Designated Developmental District that already has an overlay allowing residential use by right and has multifamily developments.

The proposed zone would span 52.6 acres and includes the Highland Estates on Dearborn Road, JEOL USA's North American headquarters, the Jayden Apartments and Northeast Nursery's distribution center.

The new zoning would allow 2,319 new units to be added to new or existing buildings by right in that area. But it's unlikely anywhere close to that number would be built, Bellavance said.

"The law doesn't require you to build the units. It just requires you to zone to allow (developers) to build the units," he said. "This district is basically a safe district to allow for the zoning change."

The city asked commercial property owners in the proposed zone if they planned to turn their properties into residences, to which they said no, Bellavance said.

Communities cannot place restrictions on multifamily housing in 3A-compliant zoning that wouldn't apply to other uses. That means they cannot require mixed-use buildings only or age restrictions on the units in these zones, and must allow them to be family-friendly.

Peabody would have to adopt the new zoning by Dec. 31 to be in compliance with 3A.

The city relies on much of the grant money being leveraged by the state under 3A, Bellavance said. That's why Mayor Ted Bettencourt supports the proposed zoning change.

"Quite frankly, we would have never brought this forward to you and this would not have been something that we would have been working on certainly without the state requirement, which seems strange to me because I don't even consider ourselves really an MBTA community," Bettencourt said.

Peabody only has a few MBTA buses running through it, the mayor noted. The city also has worked hard to build its housing stock over the last decade to help

address the state's housing crisis, Councilor at-Large Tom Rossignoll said Thursday.

"We've done our due diligence maintaining our 40Bs, adding a housing overlay, doing what we have to do and what we should do to have affordable housing units," he said. "The fact that other cities and towns have not done such, we should not be lumped in with this mandate."

Rossignoll called 3A "deplorable" legislation and said he would vote against putting Peabody in compliance.

"The state in their infinite wisdom keeps jamming things down our throat and we have to pick up the slack and it's constant and it's never ending," he said. "We have to draw a line in the sand somewhere and this is where I'm willing to draw it."

In 3A compliant districts, communities cannot require more than 10% of a new development's units be designated as affordable unless the city or town petitions the state to increase that percentage.

Proponents of the law say it will bring down housing prices by creating a larger, more diverse housing stock in Massachusetts. But not requiring affordable housing outright through this law and capping it at 10% of units for each development is counterproductive, Councilor at-Large Jon Turco said.

Councilor at-Large Anne Manning-Martin said the city should hold off on adopting the proposed zoning until there is a ruling on the Milton case. In order to meet the Dec. 31 deadline, the city would have to hold a public hearing and have the zoning go before the Planning Board and City Council for a vote.

Ward 3 Councilor Stephanie Peach said that while the council is "in agreement that this is a gross overstep of the state," she thinks Peabody should continue the 3A compliance process.

"I'm not willing to risk the amount of funding we receive from the state by not complying," Peach said. "I wish we were in a position to, but if we put ourselves in that position, it's going to be a very difficult budget year and we're going to see significant tax increases, more than we're even looking at just on a baseline now."

The proposed overlay before the council is the city's best bet at complying with the law, she said.

“It would be irresponsible to the residents for us to turn around and say we're not going to do this because we don't think that the state should tell us what to do.”

Push-back in smaller communities

Nearly 80 communities have approved 3A compliant zoning. But some have voted against it, including Marblehead.

Residents groups from multiple communities have joined a class-action suit against the state over the law, even though in some cases their towns have already approved 3A zoning, like in Rockport.

In Ipswich, a group of residents are fighting a 3A zoning proposal set to go before Ipswich Town Meeting on Oct. 22.

That multifamily overlay would include parcels along Market, Central and Union streets and a stretch of parcels abutting the MBTA tracks closest to the train station. It would also include properties on Soffron Lane, some lots on Washington Street and Topsfield Road, a lot on Brown Street and where multi-family developments already sit on Colonial Drive.

The proposed overlay would allow for 971 new units to the town. Though like Peabody, just because this district has the capacity to host these units does not mean all (or any) will be built.

Opponents of 3A spoke about their stance at a forum for Ipswich residents Tuesday night and gave out lawn signs against 3A.

The state is overstepping its capacity to enforce 3A by holding funding over communities' heads, they said. Because the number of bedrooms or occupants cannot be capped in 3A zoning developments, they're concerned large apartment buildings will ruin Ipswich's small-town feel down the road.

Ipswich resident Dan Kelly said the guidelines for compliance are not written into the actual law, and therefore should not be considered regulations communities have to follow. The town's population could also increase significantly if new units

are built, which could lead to higher infrastructure costs in Ipswich, he said at the forum.

“This is going to discourage affordable housing because it’s going to make, as our sign says, the town unaffordable.”

Contact Caroline Enos at CEnos@northofboston.com