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Mariano says Milton has legitimate complaint over MBTA housing law, declines to intervene



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House Speaker Ron Mariano (left) and House Ways and Means Committee Chair Aaron Michlewitz (right) address reporters after a private House Democratic caucus on Wednesday.

By Chris Lisinski | State House News Service

The top House Democrat said Thursday he believes the town of Milton had a "legitimate complaint" about a controversial mandatory zoning-reform law, but added that he is not considering any legislative action to let the community off the hook.

House Speaker Ron Mariano echoed complaints that Milton opponents raised about the MBTA Communities Act, which requires cities and towns with or near T service to zone for multi-family housing by right in at least one reasonably sized district. The law is designed to address the state's housing supply shortage.

The state designated Milton a "rapid transit community," imposing the strictest requirements and earliest compliance deadline under the law, because the light-rail Mattapan trolley passes through it. But some in Milton argued the trolley should not be equated to the rest of the T's core subway, light rail and bus system.

"I felt that if I was the judge, and I'm not, all they got is this crazy little trolley car. They don't have a train, they don't have bus access and stuff," Mariano told reporters Thursday. "So I said, if I looked at it, they don't have enough to really be a full-fledged thing in MBTA Communities."

But asked if the House would consider carving Milton out from the MBTA Communities Act, Mariano answered with a single word: "No."

The Quincy Democrat opined on the MBTA Communities Act during an appearance at a Greater Boston Chamber of Commerce event.

Lawmakers included the zoning reform in a 2021 economic development law. Most of the 177 municipalities subject to the law are in compliance, but a vocal minority have resisted the zoning changes.

The Supreme Judicial Court in January ruled that the law is constitutional and can be enforced with legal action, like the kind Attorney General Andrea Campbell took against Milton, while requiring the administration to redo the regulatory process.

However, the legal battle did not end there. In February, responding to an inquiry by local officials in Wrentham, the Division of Local Mandates -- part of Auditor Diana DiZogio's office -- said the law constitutes an "unfunded mandate."

Several communities soon filed additional lawsuits against the MBTA Communities Act, citing the unfunded mandate determination. Plymouth Superior Court Judge Mark Gildea heard arguments on April 2 about cases brought by Marshfield, Middleton, Wrentham and Hanson. Gildea has not yet issued a ruling.

During a question-and-answer session with Greater Boston Chamber of Commerce CEO Jim Rooney, Mariano said he thinks Milton's complaint "opened the door" and DiZoglio's office "stepped right in and blew it wide open."

"That drove a number of other communities to jump into the argument, and we looked at how they try to recover money," Mariano said. "They were putting in for new sidewalks, new pipes, things that had nothing to do with the construction of housing but were basic infrastructure requirements, trying to get us to back off from the law."

Campbell has said she views the unfunded mandate finding as "incorrect" and pledged to defend the law from the latest challenges. DiZoglio has argued in response that Campbell and others are trying to "scapegoat" her office by misrepresenting the work of the Division of Local Mandates, which the auditor described as "the fulfillment of its statutorily required duties to respond to municipalities who seek such determinations."

"So once again, we have separate branches of government not agreeing," Mariano said, an apparent reference to the bruising feud between Campbell, DiZoglio and the Legislature over the voter-approved law empowering the auditor to probe the House and Senate.

Mariano said he expects the courts to iron out the unfunded mandate dispute, and called on holdout cities and towns to embrace the law as the state pursues a goal of creating 222,000 new homes by 2035.

He recounted the challenges of getting off the ground a housing development in his district that required three separate communities to agree on regulation and zoning -- something Mariano likened to "Arab-Israeli peace talks."

"We need these cities and towns to make a commitment because if they don't, if they continue to try and exploit any loophole they can find, we will never hit that [222,000] target," he said.

Sam Drysdale of State House News Service contributed reporting.



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