

What Happens When A Community Has Satisfied 1.5% Land Area Minimum

Comprehensive Permit Process

- Chapter 40B seeks to balance the regional need for affordable housing against local concerns. It does so by providing for a comprehensive permit process before a single municipal board, the Zoning Board of Appeals (ZBA), which is empowered to issue all local approvals for a project.
- For municipalities with less than 10% of their housing stock or 1.5% of the developable land area deemed affordable, comprehensive permits are subject to review by a state administrative agency called the Housing Appeals Committee (HAC), which is part of the Massachusetts Department of Housing and Community Development (DHCD).

Reaching 1.5% Land Area Minimum

- Once the municipality reaches one of the statutory minima (10% of housing units or 1.5% of land area), the regional need for affordable housing no longer automatically trumps local concerns. At that point, reasonable conditions imposed by a ZBA are deemed consistent with local needs.
- The net effect of reaching 1.5% is that comprehensive permit decisions of the ZBA are no longer subject to review by the HAC. But that does not mean the ZBA's permit decision becomes immune from all review. Developers, like anyone aggrieved by a zoning decision, may seek judicial review in the courts under G.L. c. 40A.

Process After Reaching 1.5%

- Even once 1.5% has been satisfied, the Chapter 40B process remains available to developers through a comprehensive permit to the ZBA.
- The ZBA still conducts a public hearing where local concerns and suggested modifications to a project may be raised.
- Municipalities that have reached 1.5% have more local control to direct their affordable housing strategy, which facilitates affordable housing plans.