



Multi-family Zoning Requirement for MBTA Communities

An Introduction to Section 3A of the Zoning Act

**Presented by The Executive Office of Housing and Livable Communities to:
Eastern Massachusetts Historical Commission Coalition
June 6, 2023**

- **When multi-family housing is allowed, it is usually subject to an expensive, unpredictable, and time-consuming process**
 - Special Permits, public hearings, developer negotiations, excessive parking requirements
 - Development barriers limit housing production
 - Development costs are passed on to buyers and renters
- **Section 3A establishes a new paradigm**
 - removes the *zoning barriers* to some multi-family housing development
- **Municipalities can comply with Section 3A with districts designed to their liking**
 - Focus is on allowing multi-family housing in climate friendly, walkable neighborhoods
 - Located near transit stations when possible
 - Located near amenities and community resources



Section 3A of the Zoning Act



Section 3A. (a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

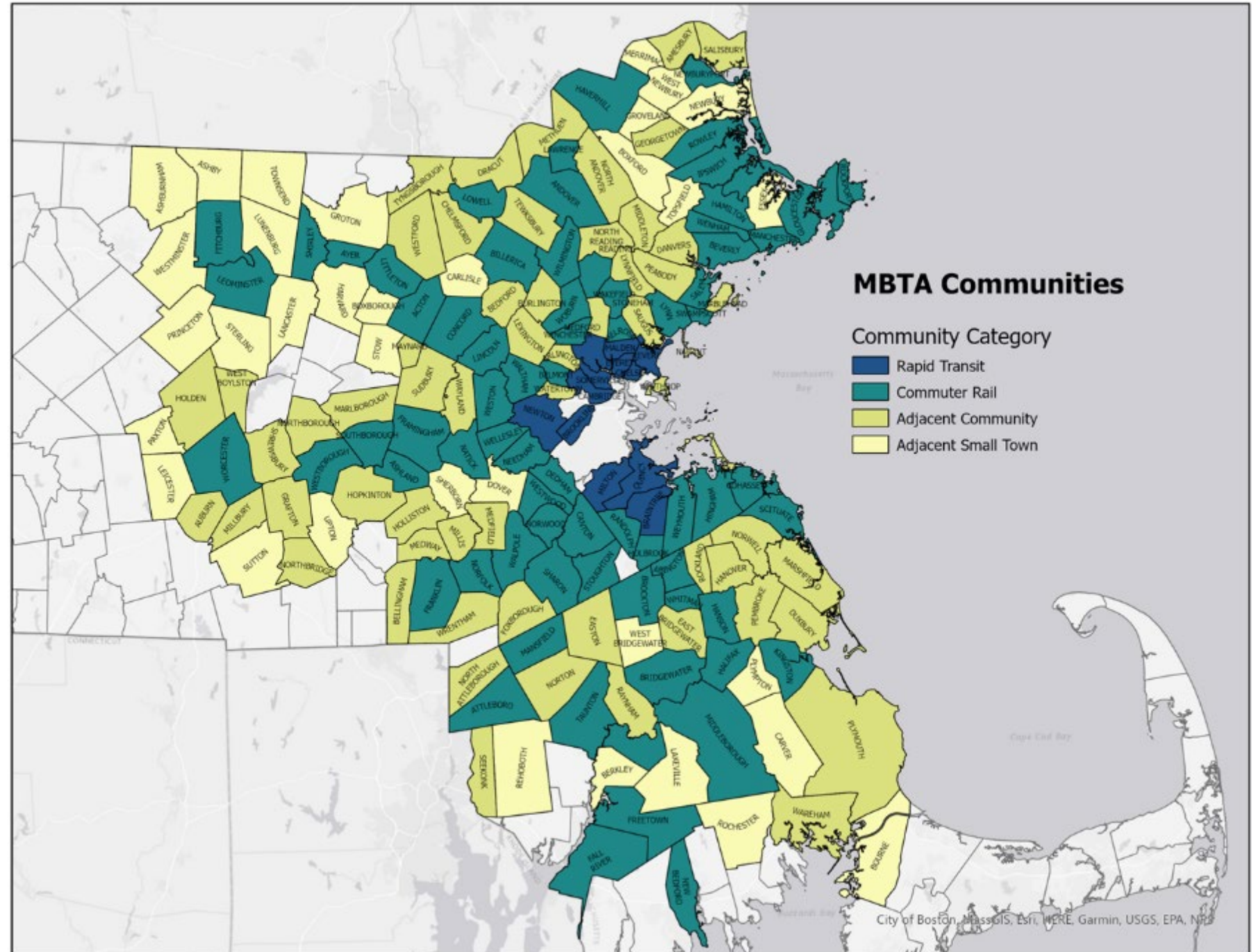
(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27 of chapter 23B.

(c) The executive office of housing and livable communities, in consultation with the executive office of economic development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

What is an MBTA Community?



- 177 municipalities
- Generally, have a fixed transit station or abut a municipality that does
- 4 Community categories
 - Rapid Transit (12)
 - Commuter Rail (71)
 - Adjacent (59)
 - Adjacent Small Towns (35)
- Categories affect “reasonable size”, district location, and timeline



What does this multi-family housing look like?



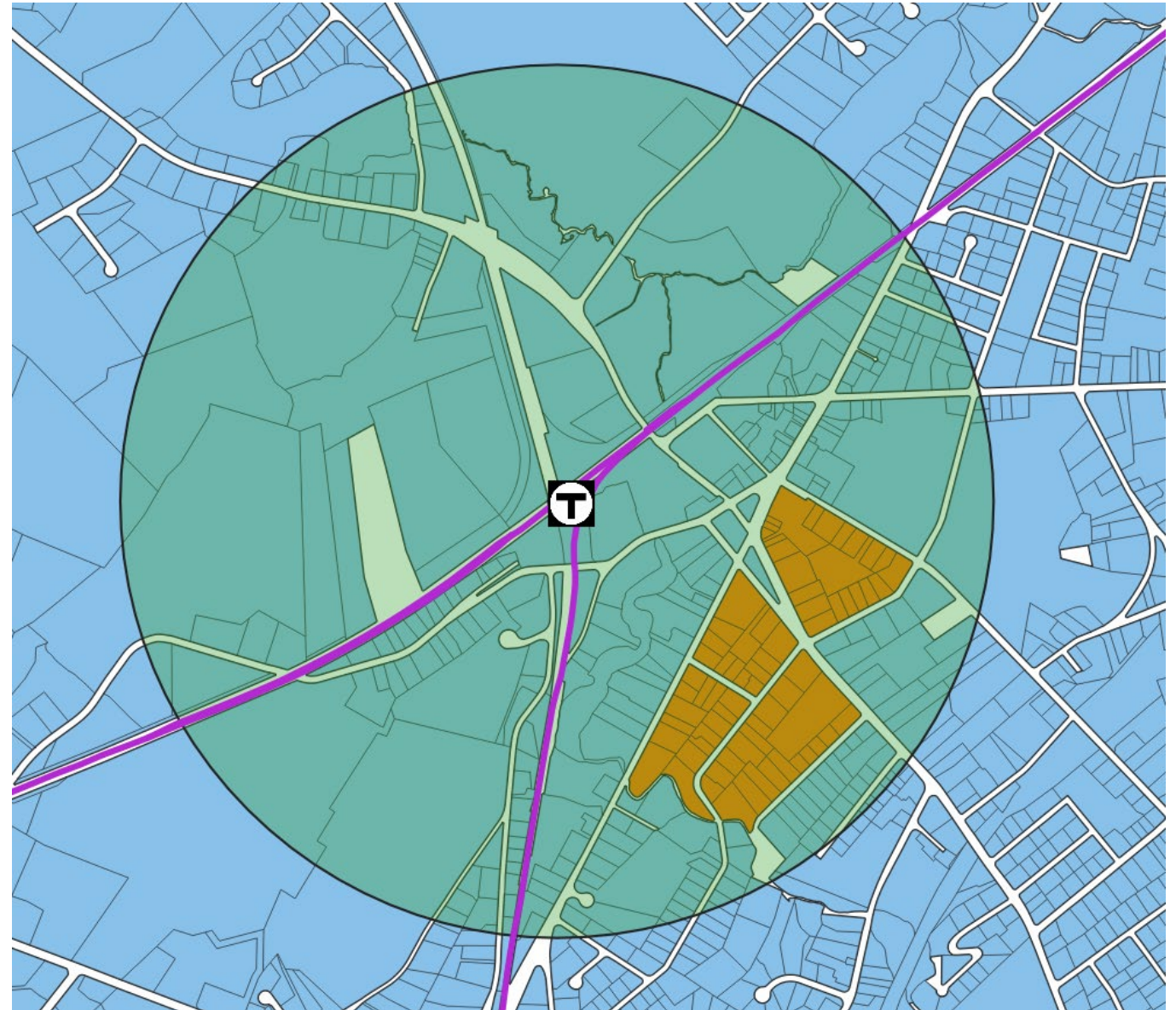
Multi-family housing: “a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building” – MGL c. 40A §1A



Reasonable Size: Minimum Land Area



- In most communities, district must be at least 50 acres
- 50 acres is about 1/10th of the land area within ½ mile of a transit station
- Communities may choose to have larger districts at lower density, or smaller districts at higher density
- **In practice, no community is required to locate more than ~25 acres in a single transit station area**



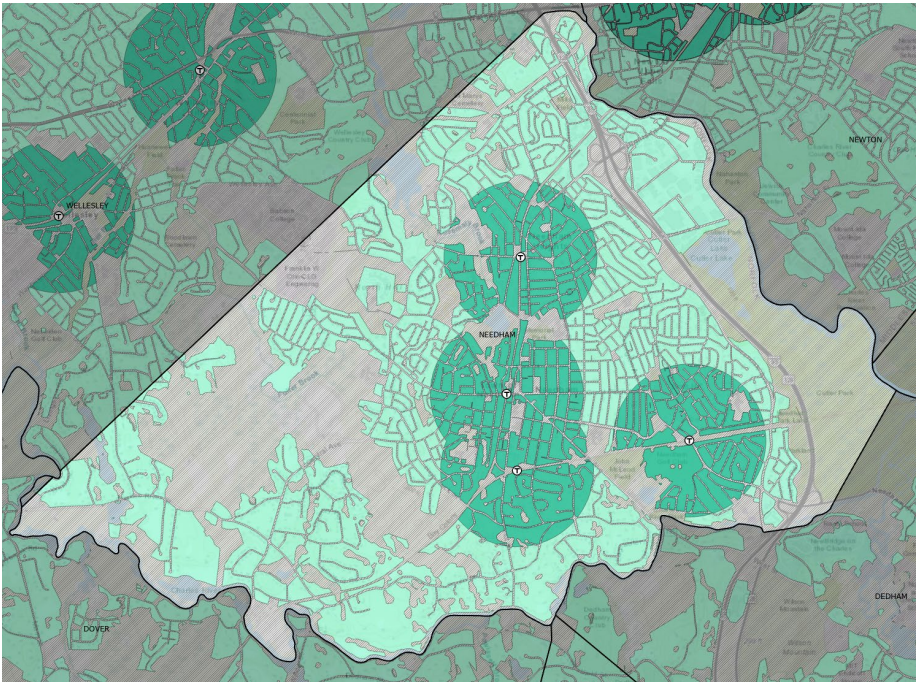
District Locations



“located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.”

More station area means more of the district near transit stations

Acres of Developable Station Area	Portion of District that must be in transit station area	Number of Municipalities
0-100	0%	94
101-250	20%	17
251-400	40%	26
401-600	50%	16
601-800	75%	14
801+	90%	10





- Although the statute is silent on affordability, the compliance guidelines allow districts to include an affordability component
- All districts may require that up to 10% of units are affordable to households earning up to 80% of Area Median Income
- Some districts may require affordability for a higher percentage of units, and/or for units to be affordable at lower incomes
 - Smart growth zoning districts – c. 40R
 - Economic Feasibility Analysis
- Units may, but are not required, to be eligible for Subsidized Housing Inventory – This allows “workforce housing” (AMI over 80%)

What Section 3A **Doesn't** Do



3A DOES NOT:

- Require production of housing
- Compel communities to pay for infrastructure for future development
- Supersede Wetlands Protection Act or Title V of MA Environmental Code
- Supersede historic districts
- Allow municipalities to get a waiver or exemption from the requirements



Compliance Model: Evaluating districts



- EOHLC and its partners developed an automated tool to evaluate how much multi-family housing a district allows
- The model applies zoning to conditions on the ground to quantify zoning restrictions on multi-family housing
- The model requires minimum parking inputs to ensure that excessive minimum parking requirements in zoning do not render the allowable housing illusory
- The compliance model is NOT a build-out analysis. As zoning barriers are removed, compliance model outputs will exceed a buildout analysis

What can you do now?

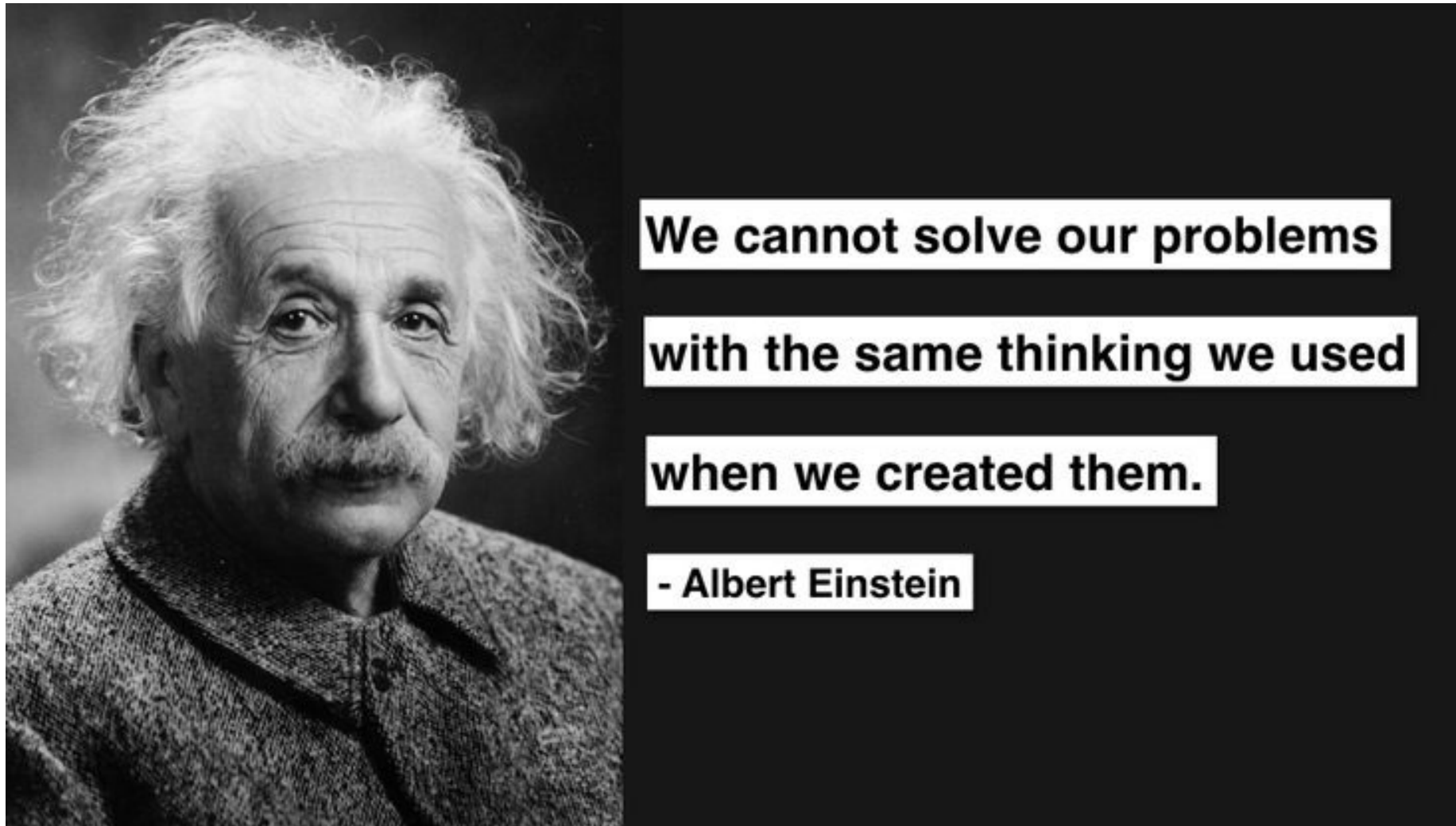


- Most communities have submitted Action Plans, but not District Compliance Applications
- Review Action Plans on mass.gov/mbtacomunities
- Get involved at the **local level** to contribute towards planning the best possible district in your community
- Compliance Deadlines: 2023 (Rapid Transit), 2024 (Most), 2025 (Adjacent Small Town)

Action Plan Summary

- 173/177 MBTA communities submitted approvable Action Plans (98%)
- Many Action Plans provide preliminary strategies the community is considering for its district
- All Action Plans summarize local requirements, and provide a timeline for the steps towards compliance

Contact Information



If you need more information to help others in your community to understand this legislation, please let us know! You can email program staff at: DHCD3A@mass.gov**
mass.gov/mbtacomunities *will continue to have information and resources*