



Citizens' Housing and Planning Association

HOW DOES THE STATE AUDITOR'S DETERMINATION THAT THE MBTA COMMUNITIES ACT COULD BE AN UNFUNDED MANDATE AFFECT COMMUNITIES?

WHAT IS THE MBTA COMMUNITIES ACT?

The MBTA Communities Act was signed into law in 2021 by then Governor Charlie Baker, with the intention of creating more reasonably-priced homes near transit. The law requires every one of the 177 communities that are served by or adjacent to the MBTA to designate a district where multifamily housing is allowed by right. Once fully implemented, the law is expected to create roughly 40,000 homes—making it an essential strategy in realizing the 2025 Massachusetts Statewide Housing Plan goal of creating 222,000 homes by 2035 to stabilize housing prices.

In January 2025, the Massachusetts Supreme Judicial Court ruled that the MBTA Communities law is constitutional and the Attorney General has the power to enforce it in all 177 communities.

WHAT DETERMINATION DID THE STATE AUDITOR MAKE REGARDING THE MBTA COMMUNITIES ACT?

The State Auditor's office argued that the MBTA Communities Act is an unfunded mandate, but stated that they require "additional time to perform a thorough analysis of the costs imposed as the impact of the MBTA Communities Act is still being determined."

This determination is highly unusual, considering that the Auditor has not yet undertaken an actual audit of the potential costs. The Auditor herself voted for the law as a State Legislator, and restated her support for the law and its intention to alleviate the housing shortage. Moreover, opinions issued by the Division of Local Mandates are advisory in nature and have no legally binding effect.

HOW DOES THIS DETERMINATION AFFECT COMMUNITIES' RESPONSIBILITIES UNDER THE MBTA COMMUNITIES ACT?

The Auditor's determination has no material impact for the 119 communities that have already passed their zoning districts, nor for those who are in the process of complying. Municipalities working towards compliance should continue their efforts. Furthermore, Massachusetts Governor Maura Healey and Attorney General Andrea Campbell have stated that the MBTA Communities Act is not an unfunded local mandate and that the Auditor's determination does not change the law's enforceability in all 177 communities.

The Attorney General has stated her intention to defend the MBTA Communities Act vigorously in court, and independent legal analysis solicited by CHAPA suggests lawsuits challenging the law on the basis of the Auditor's determination are unlikely to succeed.

IS THERE STATE FUNDING AVAILABLE FOR COMMUNITIES TO COMPLY WITH THE MBTA COMMUNITIES ACT?

Every community that has requested funding for complying with the MBTA Communities Act to date has received it from the Executive Office of Housing and Livable Communities. The state has provided 157 out of 177 communities with more than \$7.8 million in technical assistance grants to help officials draft new zoning districts.

Moreover, organizations like the Massachusetts Housing Partnership (MHP) are still accepting applications for funding from cities and towns seeking to comply with the MBTA Communities Act. The funding can be used to provide technical assistance to planning staff and municipal officials related to the development and/or documentation of multifamily zoning districts. For more information visit: [“MHP MBTA Communities Technical Assistance Program \(“3A-TA”\)”](#).

ARE THERE OTHER FUNDING RESOURCES AVAILABLE TO COMMUNITIES ONCE THEY HAVE ADOPTED MBTA COMMUNITIES ZONING?

Yes, Governor Healey has launched the [MBTA Communities Catalyst Fund](#), offering an initial \$15 Million in grant funding to compliant MBTA Communities to support local housing production and infrastructure projects.

WHAT ARE THE FISCAL IMPACTS OF COMPLYING WITH THE MBTA COMMUNITIES ACT?

Rezoning to allow more multifamily homes is fiscally net-positive for communities. New multifamily homes bring in valuable new tax revenue while typically requiring fewer costs per resident than single family homes. The towns of [Milton](#), [Mansfield](#), [Medfield](#), and [West Newbury](#) have commissioned economic impact analyses that have all found that complying with the MBTA Communities Act would have a positive impact on municipal finances.

Updating zoning codes is already a regular function of local government, so the MBTA Communities Act does not impose any additional direct costs on communities by requiring zoning changes. Moreover, the Executive Office of Housing and Livable Communities (EOHLC) has provided grant funding to cover any administrative costs for all communities seeking to comply.

WHY SHOULD COMMUNITIES CONTINUE TO COMPLY WITH THE LAW?

As of March 2025, 119 communities have already adopted MBTA Communities zoning districts to create diverse housing options for young families, working people, and older adults. Over 82% of the MBTA Communities that have faced compliance deadlines so far have committed to doing their part in creating housing opportunities and investing in the future of Massachusetts. The MBTA Communities Act is an essential tool to encourage thousands of homes, create housing at diverse price points, foster transit-oriented, walkable town centers, provide downsizing opportunities for an aging population, support first-time homebuyers, and invest in our workforce.

Communities that fail to adopt multifamily zoning districts by their deadlines will lose eligibility for grant programs such as the Housing Choice Initiative, the local Capital Projects Fund, and the MassWorks infrastructure program, and could face legal action from the Attorney General.