

## Home economics

### While many affordable housing projects lose out to community opposition and a softening market, suburbs northwest of Boston buck the trend

By Christine McConville, Globe Staff | June 21, 2007

A Massachusetts Institute of Technology study released this week shows that almost half of the so-called 40B housing developments proposed in Greater Boston have not been built because of community and neighborhood opposition combined with a softer housing market.

But in Boston's northwestern suburbs, developers have had a better rate of success: The study by the Housing Affordability Initiative at the MIT Center for Real Estate shows that about two-thirds of 40B developments proposed in this area were completed.

Most of the others are being resolved in various courts, according to the study, "Chapter 40B Permitting and Litigation."

Activists on both sides of the 40B controversy found elements in the report to bolster their arguments.

"It shows that the use of 40B has been critical to the overall housing production in the region," said Aaron Gornstein, a 40B supporter whose organization, Citizens Housing and Planning Association, helped pay for the study.

"The study also shows that there has been extensive scrutiny and negotiation through the process," he said.

But state Representative William Greene, a Billerica Democrat and a 40B critic, had a different take on the report.

"Look at all the havoc 40Bs have caused," he said after reviewing the study. "With all this development, town infrastructures are under tremendous pressure. . . . The harm that these developments has done has far exceeded the good."

The study, funded in part by development companies that have built housing under Chapter 40B, the state's affordable-housing law, focused on developments between 1999 and 2005, the busiest years ever for proponents of the four-decades-old statute. It did not include projects proposed after the cut off date, including one slated for the Belmont Uplands.

"We looked at everything that had been brought before the local zoning boards by December 2005," said Lynne Fisher, one of the study's authors. "Then we followed those proposals up until this year."

Typically, such projects would have received preliminary approval by a financing agency.

The developer applies for a comprehensive permit from a local zoning board, and that permit enables the developer to proceed with construction.

The MIT report shows that 369 40B developments were proposed in 113 communities in Greater Boston between 1999 and 2005.

Researchers found that it took on average 10 months for a proposal to receive a zoning board decision after the application was made.

So far, only about 57 percent of those permitted projects have been built.

Nonetheless, the impact is significant: The completed developments have produced 15,000 housing units in the 113 communities.

A portion of the study reviewed 24 communities northwest of Boston and found that of 108 developments proposed under chapter 40B between 1999 and 2005, 89 were approved by the towns, 10 were denied, five were withdrawn, and four are pending before local boards.

The MIT group then determined that of the 99 proposed developments -- the 89 approved by towns and the 10 that

were initially denied, then appealed by the developers -- about 66 percent were built, said Henry Pollakowski, director of the Housing Affordability Initiative.

Together, they generated 2,197 apartments and 1,976 condominiums or townhouses. About 25 percent of those units have been rented or sold at prices deemed affordable to low- and moderate-income buyers.

The study did not include some of the region's development hot spots, such as Groton, Tyngsborough, and Pepperell, because, Pollakowski said, researchers decided to focus on the Boston metropolitan area.

Still, the study is generating significant interest in the suburbs, where the 40B debate has raged in recent years.

The law has always been controversial. Approved in 1969 by a majority of just one legislative vote, backers argued that it would prevent the state's cities from becoming warehouses for the region's poor.

The law stipulates that all Massachusetts communities must set aside 10 percent of their housing stock for low- and moderate-income people.

As an enforcement mechanism, the statute also enables developers to bypass most local zoning ordinances if they set aside at least 20 percent of their proposed units for low- and moderate-income people.

Local officials, meanwhile, complain of having no say in such developments and have routinely pushed back.

Fisher said a pattern has emerged: "Towns want to push a developer as far as they can, and sometimes they overshoot, and the developer decides they can't do it and fights back," and a development ends up in court, she said.

The Center for Real Estate decided to determine the typical path that 40B applications take, Pollakowski said.

"We are not for or against 40B," he said. "We just figure that enlightened discussion can be helped along by more information."

The study's sponsors include such 40B developers as Avalon Bay Communities, the Mullins Co., JPI, and John M Corcoran Co.; prominent housing advocacy groups; the Greater Boston Real Estate Board; Citizens Housing and Planning Association; and the Rappaport Institute for Greater Boston.

Pollakowski said the sponsors did not influence the outcome. "This was done by a university, and we are above the fray."

Fisher said that what surprised her in the study is that in a significant number of cases, a third party emerged to play an important role in the development process.

Sometimes, she said, a group of neighbors or a conservation group will appeal a town or developer decision and delay the project.

As a result, a significant number of permitted projects were not built.

"I thought that was the most surprising," Fisher said, "because so much work had gone into getting those permits.

"I had assumed that if a permit was obtained, then for sure these things were moving on."

In their next study, the researchers plan to look at why permitted project have not been built.

Gornstein and Greene said they already have a pretty good idea: the lackluster housing market of the past couple of years.

Gornstein said that the demand for 40Bs mirrors the housing market, and as new housing starts have dropped significantly in recent years, so too have the numbers of 40B proposals coming before cities and towns.

"The number of [preliminary approval] requests has gone down by 40 percent in the last few years," he said.

Greene, though, said that's because so many 40B have been built.

"Look around," he said. "They are popping up everywhere, and saturating the market. That's why we're having problems."

Matt Carroll of the Globe staff contributed to this report. Christine McConville can be reached at

[cmcconville@globe.com](mailto:cmcconville@globe.com). ■

© [Copyright](#) 2007 The New York Times Company