Government Affairs Committee – 3A Informational Series

Part 1: What is 3A?

Signed into law in 2021 as part of the Economic Development Bond Bill, The **MBTA Communities Act (Section 3A of the Zoning Act)** requires cities and towns served by the MBTA to create zoning districts that allow for multi-family housing development by right. By right, or as of right, stipulates that "development may proceed in that district….without the need for a discretionary process such as special permit, variance, zoning amendment or other discretionary zoning approval." This law impacts all 177 communities along all MBTA lines, requiring a minimum density, with no age restrictions, with a certain percentage within 0.5 miles of the transit station. Failure to comply with the MBTA Communities Act can result in a loss of eligibility for certain state grants and funding programs.

As a zoning law, 3A does not impose any construction requirements. Any proposed building or development would be at the discretion of the property owner. In addition, each community can still impose specific zoning guidelines appropriate to their community related to height restrictions, setbacks, parking, and design standards. Any deviation to those guidelines would require a special permit or variance.

There has been resistance from some residents in affected communities around this law. Milton was the first community to reject their proposed districts in a special election in February 2024. The state then filed a lawsuit against the town and said it would pull state funding for certain projects. On January 8, 2025, the Massachusetts Supreme Judicial Court upheld the constitutionality of the MBTA Communities Act, affirming the state's authority. On January 14, the Commonwealth's Executive Office of Housing and Livable Communities (EOHLC) filed emergency regulations, per the court's ruling, to implement the guidelines and ensure enforceability of the law. Remaining communities were required to submit an action plan by February 13 and will need to submit a district compliance application by July14. As a result of the Supreme Court's decision noted above, the MBTA Communities Act is law. Communities that fail to comply with the requirements will be subject to civil enforcement action and ineligible for certain sources of state funding.

Where does this leave Gloucester and Ipswich? The city of Gloucester has scheduled a special election to take place on April 24 and the town of Ipswich will add their proposal to the spring town meeting's warrant.

These upcoming elections are necessary to vote on the proposed zoning changes required for each community to be in compliance with the law. It is not a vote for or against the law but approval for the proposed districts themselves. If the zoning proposals don't pass, each community will be required to modify its zoning until it has a proposal that meets the law and is accepted by voters.