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The Cost Of NIMBYism

## Working Together To Make It Happen

### The Tension Between The Need For New Housing And The Promise Of Local Control

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A consensus is coalescing in Boston that we need more workforce housing – a lot of it. Mayor Martin J. Walsh has unveiled his plan to encourage up to 53,000 new homes by 2030. With population booming and therefore housing demand growing, there remains significant upward pressure on prices. We can only hope to make Boston affordable for people who work there by supplying the housing to meet the demand. There has been nary a dissenting voice for the need to build more housing.

And yet, many predict that local opposition will make meeting these goals extremely difficult. How can it be that people in Boston are both for and against more housing? How is it that the political/permitting process inhibits the very thing that we all agree we need?

While the Walsh administration talks about the need for housing, it also talks about providing greater transparency in the development process and empowering greater local control over land-use decision-making. Are these contrary goals?

To answer these questions, we need to think about cost/benefit to the stakeholders. The benefits in building more housing, especially close to urban centers, are felt regionally – downward pressure on housing prices, preservation of open space, reduced dependence on cars. These benefits are diffused; each new project provides only a small or imperceptible benefit, but to a large number of people.

## **Considering The Costs**

By contrast, the costs of urban multifamily residential construction are felt by a small number of people, but acutely. While as a matter of regional public policy, we need to build more housing, we should not ignore the fact that each new project may disproportionately impact those who live most closely to it: increased traffic and competition for parking spaces, loss of existing views, more shadows. Good public policy would weigh these costs and benefits against each other to achieve the optimal balance. But our land-use decision-making is skewed toward over-weighting the local costs. This should not be surprising; the people most likely to show up and provide comments on proposed projects are those who live closest to a particular project – the ones who feel the costs acutely, but the benefits only imperceptibly. So, when our policymakers speak about empowering neighborhood voices on development issues, they unintentionally over-count the costs of a project and under-count the benefits.

This is the very nature of NIMBYism (“not in my back yard”). Generally, NIMBYs say that they do not oppose all development. Indeed they will readily agree that we need more urban housing, they just protest that the proposed location (e.g., on their street, in their neighborhood) for a new residential (or other use) building is not ideal. In my legal practice, I regularly depose people who are opposed to a particular proposed development. I have rarely had a project-opponent testify that he or she is opposed to development generally. Instead, the witness typically testifies that he or she thinks it is a good project, it is just too big and would be better if located a few blocks over.

## **Planning For Growth**

But leaving Boston the way it is is not a choice that we have. People want to live here, the population is rising, and the demand for housing is growing. Because of this change, we do have a choice. We can choose to continually make it difficult to build the supply that will meet the demand, and thereby exacerbate the high price of housing creating a city that is increasingly the exclusive domain of the rich and relegating residential development farther and farther from Boston, to the detriment of our roads and environment. Or we can choose to provide the supply that will make housing more affordable, but plan for that growth.

To do so, we have to rebalance the political equation. Local voices should be heard in the process, but not to defeat more housing. The administration will need the political will to dictate to neighborhoods how much housing they must accept, and then at that point involve the neighborhoods in making wise decisions on how to plan for that housing.

We may also need to consider limiting project-opponents' ability to tie projects up in court for years through zoning and permitting appeals. This could be done by changing zoning rules on the standing threshold (what kind of harm a project-opponent must be able to state in order to be able to proceed in court). While our planners should hear from many voices during the planning process, we should not allow a single project-opponent disproportionate power through the courts. Only through such bold action will the cost-benefit analysis of building more housing be rebalanced and give us a decent chance of actually building the 53,000 units of new housing that we need to keep up with demand in order to moderate the rising price of housing in the region.▣

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