

## DHCD Issues Final Compliance Guidelines for MBTA Communities Prepared for the January 2023 MMA Annual Business Meeting and Trade Show

On August 10, 2022, the Department of Housing and Community Development (“DHCD”) published its final Compliance Guidelines for multi-family zoning districts under Section 3A of the Zoning Act, which guidelines can be accessed [here](#). As many are aware, the General Court amended the Zoning Act, G.L. c.40A, to insert a new §3A, commonly referred to as “the Housing Choice Act”. This law requires all municipalities with MBTA transit service to establish at least one district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute.

DHCD has issued final Compliance Guidelines detailing the criteria by which DHCD will determine whether a municipality is in compliance with the requirements of §3A, and, in turn, eligible for certain state funding. Following receipt of hundreds of public comments concerning the December 2021 Preliminary Guidelines, the DHCD incorporated significant changes in the final Compliance Guidelines, including: (1) revising the community categories, (2) eliminating minimum land area requirements for communities of less than 7,000 residents or less than 500 residents per square mile, and (3) establishing new requirements for the portion of a multi-family zoning district that must be located within a half mile of a transit station based on the amount of “development station area” within each community. The Compliance Guidelines also provide a further explanation as to the extent a municipality may regulate development in its multi-family zoning district, including, for example, site plan review, affordability requirements, energy efficiency standards, and other local controls. DHCD further revised the Compliance Guidelines on October 21, 2022, to make limited revisions to address the circumstances in which an inclusionary zoning requirement will be deemed to comply with §3A.

The Compliance Guidelines also specifically detail the methodology required to determine key compliance factors including the location, minimum land area, unit capacity, minimum gross density, and families with children suitability of a multi-family zoning district. DHCD also published its [“3A Compliance Model”](#) to assist communities with these calculations. Be reminded that **January 31, 2023** is the last day to submit an “Action Plan” to be in interim compliance and remain eligible for the calendar year 2023 round of funding. Depending on a community’s categorization, final compliance applications will be due between December 31, 2023 and December 31, 2025.

Please contact Attorney [Amy Kwesell](#) or Attorney [Jonathan Murray](#) at 617.556.0007 with any further questions.

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.