



Testimony in Support of
An Act to Guarantee a tenant's first right of refusal (S. 890 & H. 1426)

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To the
Joint Committee on Housing

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Chairman Arciero, Chairman Keenan, and Members of the Joint Committee, on behalf of MACDC and our members, I am testifying in support of An Act to Guarantee a tenant's first right of refusal (S. 890 & H. 1426). This bill is commonly referred to as TOPA – Tenant Opportunity to Purchase – and was filed by Sen. Jehlen & Reps. Livingstone and Consalvo. It would provide new tools to help tenants and their community-based partners, including CDCs, preserve tenancies at reasonable rent levels, and ensure that the Commonwealth can meet its housing needs and preserve more affordable housing. Very similar legislation was enacted in the last session only to be vetoed by Governor Baker. It is urgent for the Legislature to, once again, enact this legislation and overrule a veto if necessary.

MACDC represents all 63 state-certified Community Development Corporations in Massachusetts as well as 37 other non-profit organizations that share our mission of expanding economic opportunity across the Commonwealth. CDCs work collaboratively with residents and local governments to identify community goals and develop projects with strong local support. In 2020, our members built or preserved 1,043 homes and they had another 1,826 homes in construction at the beginning of this year. These homes represent both rental and homeownership housing and serve a range of incomes and households, from seniors to families to people with disabilities. CDC projects also include new construction, preservation and increasingly acquisition projects where our members purchase existing homes to stabilize and preserve them for long-term affordability.

This Committee knows better than most that Massachusetts faces an extraordinary housing crisis – a crisis made even worse by the COVID-19 pandemic and resulting economic dislocation. We thank you for all the work that you have done with your colleagues in the Legislature and the Administration to establish special tenant protections and rental assistance programs that have helped to dramatically reduce evictions over the past 18 months compared to the number of evictions prior to March 2020. Thanks to your efforts, thousands of families have been able to remain in their homes.

However, the eviction crisis continues, and the underlying housing market challenges worsen every day. We need a comprehensive approach to address the multiple dimensions of this crisis and to respond to the different needs across our diverse Commonwealth.

- Yes, we need to reform local zoning and the Legislature took a big step in that direction with the passage of Housing Choices and the requirement for multi-family housing near transit.
- Yes, we need to build significantly more affordable rental and homeownership housing and we have a chance to do that with an infusion of Federal ARPA dollars.
- Yes, we need more rental vouchers by continuing to increase annual funding levels for the Massachusetts Rental Voucher Program as you have done in recent years.
- Yes, we will need a long-term source of funding to sustain these investments as proposed for in the so-called HERO bill to increase the deeds excise tax for climate and housing investment.
- Yes, we need a Right to Counsel for tenants facing eviction – a bill on which we will also be submitting testimony to this committee today.

We need all these things and more.

However, we cannot address our housing crisis without dealing with our existing housing stock. Eighty percent of the homes that will exist in 2050 already exist. If these homes are not safe and affordable then there is no way to build enough new housing to replace what is lost. We simply cannot address the housing crisis without preserving our existing housing – especially the dwindling supply of so-called naturally occurring affordable housing.

Therefore, we must enact An Act to Guarantee a tenant's first right of refusal (S. 890 & H. 1426) so tenants and their municipal and community partners can work together to sustain existing rental housing and to ensure its long-term safety and affordability.

This bill is based on the Tenant Opportunity to Purchase Act (TOPA) in Washington, DC, adopted nearly forty years ago, adapted to the needs in Massachusetts. TOPA has helped to preserve housing affordability for thousands of D.C. residents since its passage in 1980.

There are several elements to consider when evaluating such enabling legislation.

- TOPA will support tenants who need and want the security of a decent affordable home and are committed to the neighborhood where they live.
- TOPA, combined with available public funding from local and state government, *can preserve existing rental housing and make it safer, healthier, and more affordable.*

- TOPA imposes limited hardships on landlords seeking to sell their property. TOPA is a market-driven strategy for preserving affordable rental housing that appropriately balances the owner's interest in being able to sell their property with the tenants' interest in remaining in their homes.
- TOPA contains safeguards to protect owners. TOPA's timeframes are designed to be typical of a normal real estate market in which properties are purchased with a combination of cash equity and debt. It imposes no price restrictions. Sales are at market-rate. TOPA exempts below-market sales to immediate family members and tenants are prohibited from selling their rights. Small owners are exempted from TOPA.
- TOPA is an enabling statute that would allow – but not require – local municipalities to create this option for tenants. In this manner, it is consistent with the Housing Choices legislation enacted in the last session in so far as it gives local government the ability to address local housing needs.
- CDCs and other non-profits have been successfully acquiring rental housing in recent years in partnership with local government. The City of Boston's Acquisition Opportunity Program has helped to acquire 432 homes through 2020, and the Somerville Community Corporation has acquired 117 homes as part of its initiative to preserve existing rental units for long term affordability. This does work. However, without a right of first refusal, many properties are sold before the tenants have a chance to even match the offer of the buyer. This often results in unnecessary displacement and the loss of long-term affordability.

We urge the Joint Committee to report favorably S.890 & H. 1426, so that all communities may benefit from the new tools and incentives that would come with passage of this bill. We look forward to working with you to advance this legislation and to maintain Massachusetts' leadership in the affordable housing sector for years to come.