

More than Compliance: Multifamily Districts That Work in Your Community

# Encouraging Family-Friendly Housing in MBTA Districts

October 12, 2022



# Welcome!



# What We'll Cover

- » Fair housing and families
- » What is “housing suitable for families?”
- » Barriers
- » Compliance with Section 3A
- » Beyond Compliance



# M.G.L. Chapter 40A Section 3A

**“An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children.”**

# Why care about family housing?

- » It's the law!
- » Lack of different types of family housing means unmet need for many families in our communities
- » Housing market dynamics and local regulations make it difficult to build diverse types of family housing
- » Key to vibrant and thriving communities



The background features three large, overlapping, organic teal shapes. One is in the top-left, another in the top-right, and a larger one at the bottom. The text is centered over these shapes.

# **Fair Housing and Families**

# Federal Fair Housing Act of 1968

Prohibits discrimination in the sale, rental, and financing of housing because of race, color, religion, sex, national origin, disability, and family status (presence of children)



# Federal Fair Housing Act of 1968

Examples of familial status discrimination:

- » Refusing to rent to families with children
- » Evicting families once a child joins the family
- » Requiring families with children to live on specific floors or in specific buildings
- » Overly restrictive rules about children's use of common areas
- » Advertising that prohibits children



# Fair Housing in Massachusetts

- » **M.G.L. Chapter 151B reinforces federal protections and includes additional protected classes**
- » **Many current zoning ordinances and bylaws contradict federal and state fair housing law**

I. No dwelling unit in any building of two or more dwelling units shall be designed, constructed, or altered to have more than two bedrooms. For the purposes of this provision, each room in excess of four rooms, exclusive of bathrooms, closets, or other small service rooms of less than 48 square feet, shall be considered a bedroom.

(18) Residential units with greater than two bedrooms shall be allowed in not more than ten (10%) percent of all residential dwellings in the CBD and BSBZ.

# Discrimination is not always intentional

- » Policy or action that appears to be neutral can be discriminatory if it has a disproportionately adverse effect on groups protected by the Act (“disparate impact”)



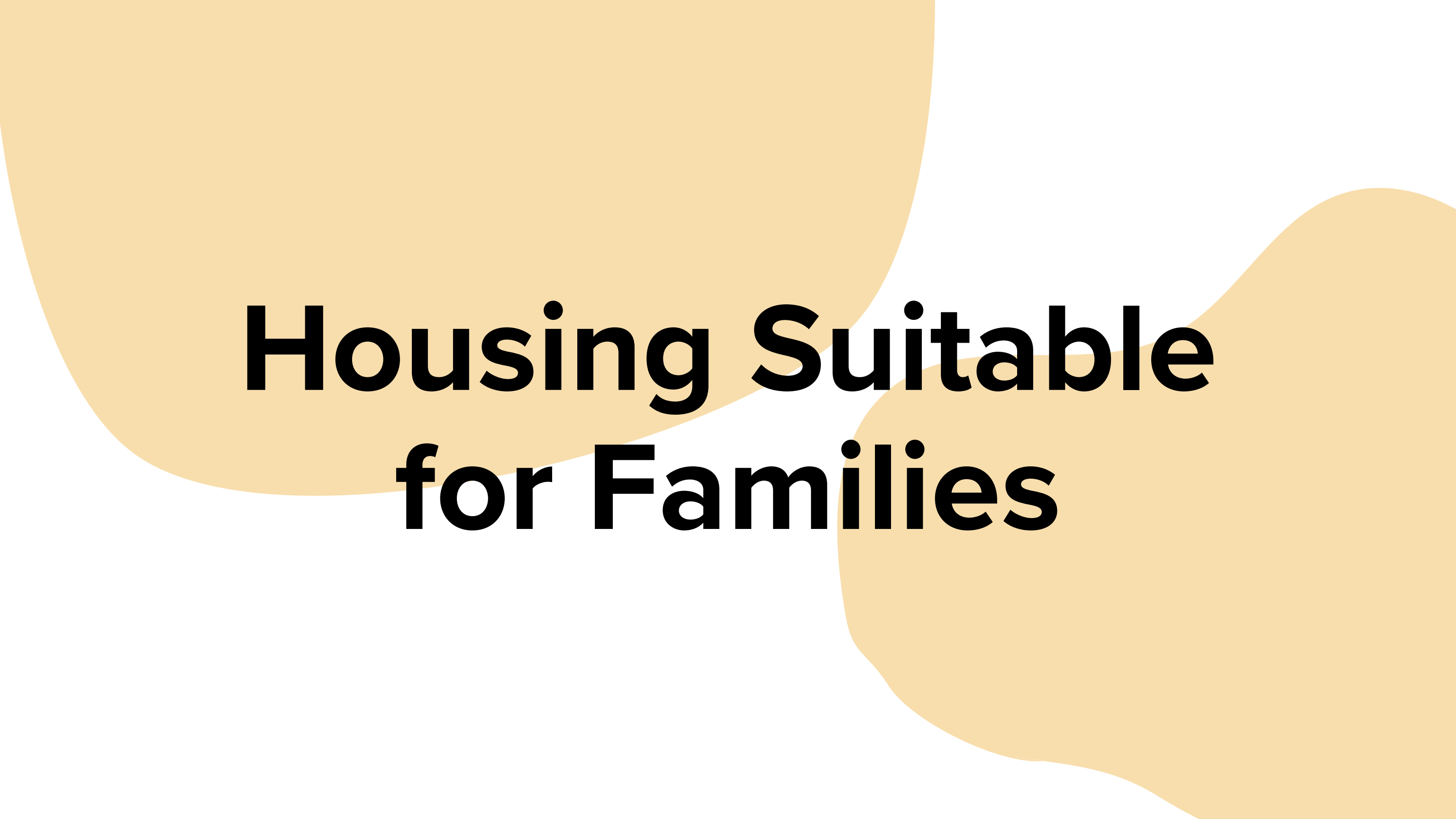
OFFICE OF ATTORNEY GENERAL MAURA HEALEY  
COMMONWEALTH OF MASSACHUSETTS

## **LEAD PAINT DISCRIMINATION: AN ADVISORY FOR TENANTS, LANDLORDS, AND REAL ESTATE PROFESSIONALS**

The Massachusetts Attorney General's Office provides this advisory to tenants, landlords, and real estate professionals to remind them of their rights and obligations under the Massachusetts Lead and Anti-Discrimination Laws.

### **Lead Paint and Discrimination Against Tenants with Children**

Landlords are obligated to abate lead paint hazards in any rental unit occupied by a child under age six. This obligation to remove lead hazards extends to all properties, including owner-occupied properties.



# **Housing Suitable for Families**

# Section 3A Guidelines

## » Section 2: Definitions

**“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.**

# “Family” means many different things



**Parents with  
school-age  
children**



**Adult children  
living with  
parents**



**Multi-  
generational  
households**

# Common Vision of “Family Housing”



Typically most expensive type of housing

- » Detached
- » Large lot
- » Suburban

# Family housing is not one size fits all

» Different types of families need different types of homes



- » Housing costs
- » Accessibility
- » Low-maintenance
- » Close to extended family and social networks

# Thinking outside the unit

» More than just units with 3+ bedrooms



- » Safe streets and walkability
- » Access to child care, school programs
- » Transit and job access



# Need for diverse family housing options



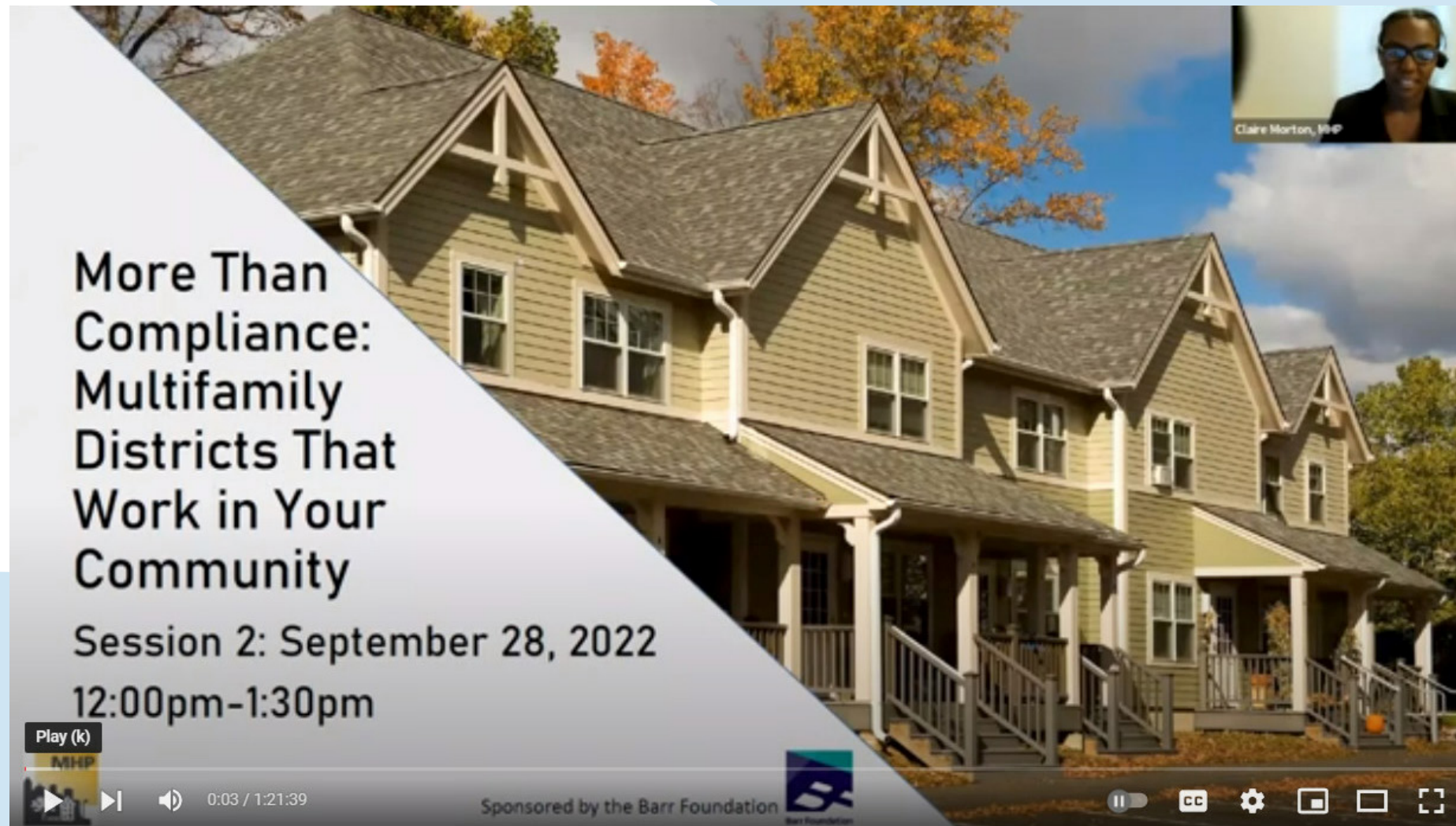
The background features two large, light blue, semi-circular shapes. One is positioned at the top center, and the other is at the bottom left corner. The word "Barriers" is centered in a bold, black, sans-serif font between these shapes.

# Barriers

# Housing market dynamics

- » New multifamily development tends to be studios and one-bedroom units
- » Competition for family-sized homes from non-family households

# Infrastructure constraints



More Than Compliance: Multifamily Districts That Work in Your Community

Session 2: September 28, 2022  
12:00pm-1:30pm

Play (k)

0:03 / 1:21:39

Sponsored by the Barr Foundation

Video player controls including play, volume, and full screen buttons are visible at the bottom.



## Session 2

### Water and Wastewater Basics for MBTA Communities

<https://www.mhp.net/news/2022/register-for-mhps-mbta-community-webinar-series>

# Zoning

- » Limits on number of bedrooms
- » Age-restricted overlays
- » Parking requirements that scale with unit size

Use	Minimum Number of Spaces
<b>Residential Uses</b>	
Single-, two-, or three-family dwelling	1 space per dwelling unit
Apartment building	1 space per efficiency dwelling unit; 1.15 space per 1-bedroom dwelling unit, 1.5 spaces per 2-bedroom dwelling unit, and 2 spaces per 3 or more bedroom dwelling unit, and 1 space per 5 units of public housing for the elderly.

# Zoning

- » Assumption that all families live in detached houses
- » No option for “missing middle” housing types



# Public perception

- » Concerns over school and fiscal impacts
- » Bias against renting to families with children

The background features two large, overlapping, organic shapes in a light red or pink color. One shape is on the left side, and the other is on the right side, both curving towards the center. The text is centered between these shapes.

# **Compliance with Section 3A**



# Section 3A Guidelines

## » Section 7: Determining Suitability for Families with Children

**Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” DHCD will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.”**

# Section 3A Compliance

- » **No age restrictions**
- » No restrictions on unit size
- » No restrictions on number of bedrooms per unit
- » No restrictions on size of bedrooms
- » No restrictions on number of occupants



# **Beyond Compliance**

# Encouraging family housing

- » Articulate diverse types of family housing as a goal of the district



# Encouraging family housing

» Location, location, location!



# Encouraging family housing

» Pedestrian-centric site planning



# Encouraging family housing

- » Broaden definition of “multifamily” to allow for “missing middle” housing types

**Section 3A definition of Multi-family housing: a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.**

# Encouraging family housing

- » Don't forget other medium-density family-friendly housing types in addition to multifamily





# Encouraging family housing

- » Make sure that dimensional requirements allow for different housing types
- » Setbacks and allowable distance between buildings



# Encouraging family housing

- » Be cognizant of predominant lot sizes in your 3A district



# Encouraging family housing

- » Balance lot coverage requirements and height requirements



# Encouraging family housing

» If included, open space requirements should be reasonable and flexible



# Encouraging family housing

- » Reasonable parking requirements and flexibility in meeting them

# Encouraging family housing

» Don't forget that not every family needs or wants a large detached house!



# Thank you!

