



MASSACHUSETTS HOUSING PARTNERSHIP

CHAPTER 40B TECHNICAL ASSISTANCE PROGRAM GUIDELINES 2019

OVERVIEW

The Massachusetts Housing Partnership (MHP) provides technical assistance to local Zoning Boards of Appeal (ZBA) in the review of permit applications for Comprehensive Permits pursuant to Chapter 40B of the Massachusetts General Laws (“Chapter 40B”) and the regulations promulgated there under at 760 C.M.R. 56.00 (the “Regulations”).

The purpose of the MHP Chapter 40B Technical Assistance Program is to assist the Zoning Board of Appeals, and other relevant municipal boards, in the review of specific Chapter 40B development proposals. MHP provides awards of up to \$15,000 to municipalities to pay for third-party consultants to work with the ZBA to increase local capacity and to assist in the review and permitting process for Chapter 40B Comprehensive Permit projects. Communities that have achieved 10% on the Subsidized Housing Inventory or that have been certified by DHCD to have an affordable housing inventory that is at or above 10% or exceeds 1.5% of the land zoned for residential, commercial or industrial use are not eligible for the 40B TA Program.

Since the inception of this program in 1999, most communities receiving technical assistance from MHP have successfully negotiated comprehensive permits on terms mutually agreeable to the municipality and the developer. In a small number of cases MHP’s technical assistance has resulted in the withdrawal of inappropriate Chapter 40B proposals or the denial of the permit by the community.

PROCEDURES

Application Process

- The applicant contacts the MHP Chapter 40B technical assistance staff at any time to discuss a Chapter 40B development that has been filed or is likely to be filed with the ZBA.
- Applications are accepted by MHP after an initial phone intake.
- An application for technical assistance will only be accepted and reviewed by MHP after the comprehensive permit application has been filed with the ZBA,
- Applicants can request a pre-hearing training on 40B for the Zoning Board and other town staff, boards and committees.
- The MHP application must include:
 - a copy of the Project Eligibility Letter from the subsidizing agency,
 - the comment letter the municipality sent to the Subsidizing Agency, and
 - any Local Rules for Comprehensive Permits the ZBA may have adopted
- The application must be signed by both the ZBA Chair and the Chief Elected Official.
- MHP strongly recommends interested communities contact MHP early in the process to facilitate the engagement of a qualified consultant *prior* to the start of the first public hearing. MHP reserves the right to reject an application for assistance after the hearing has opened.

- MHP typically completes a review within 10 days of the receipt of a complete of the application and, if approved, sends an award letter to the applicant community.

Consultant Services

- Prior to receiving an award a community must select a consultant from MHP's list of Program Consultants.
- Program Consultants are responsible for
 - providing technical assistance to the municipality in understanding the Chapter 40B permitting and review process;
 - assisting in identifying areas needing additional study or technical information; and
 - facilitating constructive discussions between the developer and the ZBA.
- The Program Consultant's role in providing comprehensive Chapter 40B technical assistance does not replace the role of the municipality's legal counsel. However, in accepting the technical assistance award, the municipality agrees that the consultant will be the lead consultant for the project and will assist in assessing the need for additional technical assistance including peer review consultants.
- Program Consultants are limited to contracting with a maximum of 3 communities at one time. Exceptions may be made for consultants who have previously contracted with communities under the Program.

Uses of Technical Assistance Funds

- MHP Program staff will work with the applicant community to determine the amount of the technical assistance award. A maximum of \$15,000 is available for the first award to a given community with a typical award amount of up to \$10,000 for subsequent requests.
- For communities with multiple simultaneous 40B projects, MHP reserves the right to limit the total amount of funds awarded at any given time to a community.
- An award under the Program does not fund or take the place of services that are typically the financial responsibility of the developer, such as peer review for engineering, traffic, architecture and other technical issues eligible for funding under M.G.L. c. 44 Sec. 53G.
- Legal costs for municipal counsel and mediation services are not within the scope of this Program.

Contracting and Payment

- MHP will contract with the Program Consultant selected by the applicant, who will be an independent contractor of MHP and will render the contracted services directly to the community. The Program Consultant shall perform the services in a professional, independent, impartial manner in accordance with Chapter 40B, the Regulations, DHCD's Guidelines for Ch. 40B Comprehensive Permit Projects, and the 40B Consultant Program Guidelines
- MHP will furnish a copy of the signed contract to the municipality, which will contain a scope of work.
- The Program Consultant shall submit invoices directly to MHP for payment. MHP will request authorization for payment from the municipality prior to making a payment to the Program Consultant. However, if no response by the municipality is received within 5 business days, approval will be assumed.

Reporting and Evaluation

- MHP requests that the municipality notify MHP if the Chapter 40B permit application is withdrawn by the developer or if for any reason the technical assistance award funds are no longer needed.
- MHP requires that a copy of the final ZBA decision be sent to MHP at the time the decision is issued and filed with the Clerk's office.
- MHP requires the completion and submission of the *MHP Chapter 40B Program Evaluation Form* which is used to evaluate consultant assistance and the effectiveness of the program.

To speak to MHP staff about your Chapter 40B project and to request an application for technical assistance contact Laura Shufelt at 857.317.8582or lushufelt@mhp.net.



Date: _____

Ch. 40B Technical Review Assistance Application

Please speak to Community Assistance staff to discuss your project before requesting an application.

Laura Shufelt: 857.317.8582 or lshufelt@mhp.net

CONTACT INFORMATION

Municipal Contact for Application		ZBA Chair		Chief Elected Official	
Address		Address		Address	
City/Town/Zip		City/Town/Zip		City/Town/Zip	
Phone		Phone		Phone	
Email		Email		Email	

PROJECT INFORMATION

Project Name:	Developer:
Principals:	Attorney:
Consultants:	Engineer:
Project Address:	

DEVELOPMENT SITE & ZBA MEETINGS

Number of Units Proposed: Total _____ Affordable _____

Project Type: Rental Homeownership

Size of Site: _____ acres

Age-restricted? Yes No

Date Permit Application Filed with ZBA: _____

First Hearing Date? _____

Is 1st Hearing within 30 days of application? Yes No

Day/Time ZBA meets? _____

Have hearings been held already for this project? Yes No

If Yes, dates? _____

SITE APPROVAL/ELIGIBILITY LETTER:

What is the source of the project eligibility letter? _____

Date of Project Eligibility Letter _____

Please provide a copy of the letter with this application.

Did the municipality submit comments to the Subsidizing Agency? Yes No

Please provide a copy of the comment letter with this application.

What specific review issues would you like assistance?

What are the main municipal concerns with the project?

Does municipal staff or ZBA members have prior experience reviewing comprehensive permits ?

Yes No If yes, how much? _____

Does the municipality have a Housing Production Plan that addresses affordable housing?

Yes No

If yes, is the plan approved by DHCD? Yes No Certified? Yes No

Has the municipality adopted Comprehensive Permit review rules? Yes No

If yes, please include a copy of the rules with this application.

Who is the counsel/attorney for the ZBA on this project?

Please list the Comprehensive Permit applications submitted to the municipality in the last 5 years .

NAME OF PROJECT	FUNDING SOURCE	APPROVED/DENIED	DATE

Which consultant does the ZBA prefer?

1. _____

2. _____

SIGNATURE OF CHIEF ELECTED OFFICER

DATE

PRINT NAME AND TITLE

SIGNATURE OF ZBA CHAIR

DATE

PRINT NAME