

Boston’s Affordable Future

A Housing Policy Recommendation

This document gives background on Boston housing affordability, and makes recommendations to address racial and economic inequality through policy enforcement and new legislation.

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1. Summary

The City of Boston is rapidly becoming more unequal and segregated than at anytime in its history. Boston is one of the least affordable major housing markets in the world¹, and Massachusetts is one of the most unequal states² in the country. The city's current response to this crisis is to rely on trickle-down economics—tying housing-affordability to requirements on private luxury developers and waiting for the market to devalue itself³. This approach only serves to maintain the current housing system, which is building units instead of homes, and is failing to meet the needs of the city's most vulnerable residents.

Boston is experiencing an influx of real estate speculators and residents with much higher incomes than the city median of \$37,288 per year. These new speculators and wealthy residents set the market for buying or renting a home high, and push out minimum and median income earners. The City of Boston's market-based housing philosophy is looking more like a process through which Boston residents are systematically evicted and replaced by investors and higher income earners than it is a process of trickle-down housing.

The idea that building luxury housing today will increase supply and eventually depress the market so that minimum and median income earners can afford it would also require a portion of luxury housing developments to fail. Real estate developers are adept at exploiting markets, and we should not trust this supply-flooding strategy to play out in favor of Bostonians. Instead, we should put policies in place that increase affordable housing through public ownership programs and structurally lower rents.

Food, education, healthcare and housing are fundamental human rights which every Bostonian deserves. At a time when Massachusetts is on the edge of implementing universal health care, our city and state officials should be looking at universal housing. **We believe that housing is a right, not a commodity.** While we develop the political will to radically decommodify housing, this document recommends a series of regulatory responses to Boston's current market-centric development problem. We propose to increase funding for public housing, increase affordability requirements for private developers, replace Area Median Income with real median income for local policy, enforce inclusionary employment requirements, reform the Zoning Board of Appeals, restrict campaign finance for city officials, institute rent control, eliminate predatory eviction practices, and implement a series of tax programs. These policies will go a long way to increasing equitable access to home ownership and stable rent.

¹ <http://www.demographia.com/dhi.pdf>

² <https://www.epi.org/publication/income-inequality-in-the-us>

³ From Imagine Boston 2030 Housing Spread "This growth will create a release valve for existing neighborhoods that are seeing immense pressure on housing prices":
https://imagine.boston.gov/wp-content/uploads/2017/07/lb2030%20BOOK_Spreads--Housing.pdf

2. Background

According to the U.S. Department of Housing and Urban Development (HUD), a person is considered housing-burdened if greater than $\frac{1}{3}$ of their annual income goes toward housing. The median income for an individual in Boston is \$37,288 per year. This means the median mortgage or rent for a studio or one bedroom apartment should be \$1,025.42 per month for it to be affordable to the average Bostonian. However, today in Boston, the average monthly mortgage is \$3,115⁴ and the average monthly rent is \$3,020⁵. This is just one of the indicators that Bostonians are over-burdened by the cost of housing. While the average working Bostonian cannot afford to buy or rent a home in Boston, we are building unaffordable luxury housing at an alarming rate.

The Mayor and City Council have the ability to pass city-wide ordinances that opt-in to existing state laws that tax and control housing. But the State of Massachusetts lacks the scope of legislation that would enable Boston to limit high-end real estate development and create real access to affordable housing. For this reason it is critical that we engage and mobilize on a city and state level to achieve meaningful strides towards a more affordable Boston.

Before covering our recommendations for city ordinances and state laws to address housing inequality, we have provided a history and brief analysis of the current structures in place that are foundational to this crisis.

Public Housing in Boston

The Boston Housing Authority (BHA) currently operates 12,623 units of affordable housing for 26,000 people, and delivers rent subsidies to another 32,000 people through federal and state programs.⁶ The supply of public housing managed by the Boston Housing Authority declined by 96 units between 2017 and 2018.

YoY Change in BHA Affordable Units and Vouchers

	FY 2017 ⁷	FY 2018 ⁸	Change
Total Units and Vouchers	24,715 units	24,619 units	-96 units

Inclusionary Development Policy (IDP)

The Inclusionary Development Policy (IDP) ties affordable housing development to luxury development by requiring private developers to set aside a certain number of units as

⁴ Based on a new home purchased at Zillow's current property median for the City of Boston (\$626,000), with a 30 year fixed mortgage and a 4.5% interest rate: <https://www.zillow.com/boston-ma/home-values>.

⁵ Only 7% of rental units are available at \$1,000 - \$1,500.

⁶ <http://www.bostonhousing.org/BHA/media/Documents/Annual%20Plan/ma002a02.pdf>

⁷ 2016 annual BHA report:

<http://www.bostonhousing.org/BHA/media/Documents/Annual%20Plan/FY16%20Plan/Plan-2016-template.pdf>

⁸ 2017 annual BHA report:

<http://bostonhousing.org/BHA/media/Documents/Annual%20Plan/Annual%20Plan%202017%20proposed%20documents/plan-template-2017-approved.pdf>

affordable. This concept was first brought to Boston by Mayor Raymond Flynn through his 1986 sponsored “linkage act”⁹. The Late Mayor Thomas Menino incorporated this linkage concept into the IDP in 2000. The IDP was updated by Menino’s administration several times and most recently by Mayor Marty Walsh in 2015.¹⁰

In its current formulation, the IDP requires private developers constructing residential buildings of 10 or more units to offer 13% of the units on site as income restricted to tenants who earn 70% of the Area Median Income. Private developers can also build off site at the rate of 18% for developments in Zone A and Zone B (top and middle third of citywide values), or 15% for developments in Zone C (bottom third of citywide values)¹¹. Large luxury tower developments in Boston participate in this program, while some smaller luxury developers build nine-unit developments to avoid the affordable housing requirements.

In practice this means that we are building far more high end housing than affordable housing under the IDP. The number of luxury units currently under construction is greater than the total number of affordable units built through the city’s IDP between 2000 to 2017.

Units/Luxe/Affordable/Developed/Waitlisted/Homeless Comparison

Total Units in the City of Boston ¹²	Luxury Units Under Construction 2018 ¹³	Affordable Units Built under IDP 2000 - 2017 ¹⁴	Total Units Developed 2000 - 2017 ¹⁵	Bostonians on Affordable Housing Waitlist ¹⁶	2018 Homeless Population ¹⁷
247,621 Units	2,032 Luxe Units	1,737 Units	27,000 Units	36,000 Units	6,146 people

Area Median Income (AMI)

According to the Department of Housing and Urban Development (HUD) the Area Median Income (AMI) for Boston is \$75,500 per year. For HUD a unit is “Affordable” when a household earning 70% of the AMI is able to spend less than 1/3 of their income on housing. AMI is calculated using the combined median incomes of 114 cities and towns surrounding Boston, including Wellesley and Lexington—two of the highest median incomes in the country¹⁸. We include a grid below comparing minimum wage, real median income, and area median income

⁹ <https://malegislature.gov/Laws/SessionLaws/Acts/2001/Chapter170>

¹⁰ https://www.cityofboston.gov/news/uploads/2868_55_10_12.pdf

¹¹ <http://www.bostonplans.org/getattachment/91c30f77-6836-43f9-85b9-f0ad73df9f7c>

¹² Boston Housing Authority Annual Plan FY2018 Five Year Plan:

<http://www.bostonhousing.org/BHA/media/Documents/Annual%20Plan/ma002a02.pdf>

¹³ <https://boston.curbed.com/maps/new-construction-boston-boom>

¹⁴ More Boston neighborhoods seeing affordable housing units” August 8 2017 -

<https://www.bostonglobe.com/business/2017/08/08/more-boston-neighborhoods-seeing-affordable-housing-units/8CaFfI2DhBEAZLqOuRLOUL/story.html>

¹⁵ More Boston neighborhoods seeing affordable housing units” August 8 2017

<https://www.bostonglobe.com/business/2017/08/08/more-boston-neighborhoods-seeing-affordable-housing-units/8CafFI2DhBEAZLqOuRLOUL/story.html>

¹⁶ Boston Housing Authority Annual Plan FY2018 Five Year Plan:

<http://www.bostonhousing.org/BHA/media/Documents/Annual%20Plan/ma002a02.pdf>

¹⁷ City of Boston 38th annual homeless census:

https://docs.google.com/document/d/1JABLFH6gdFKYfR9_qyE_0VMV64YlyO5LQS55tAhqK7o/edit

¹⁸ <https://www.bloomberg.com/graphics/2017-hundred-richest-places>

with affordable rents, AMI, IDP caps, Fair Market Rent (FMR), and average market rents for 1, 2 and 3 person homes.

Income/Rent/AMI/IDP/FMR Comparison *

	Min Wage	Min Wage Affordable Rent	Real Median Income ¹⁹	Affordable Real Median Rent	AMI ²⁰	Affordable AMI Rent ²¹	IDP Rent Caps ²²	Fair Market Rent ²³	Avg Market Rents ²⁴
Individual / one bed	\$22,880	\$629.20	\$37,288	\$1,025	\$75,500	\$2,076	\$1,277	\$1,421	\$2,831
Household / two bed	\$45,760	1,258.40	\$58,516	\$1,609	\$86,250	\$2,372	\$1,459	\$1,740	\$3,383
Family / three bed	\$68,640	1,887.60	\$65,238	\$1,794	\$97,050	\$2,669	\$1,642	\$2,182	\$4,132

* All figures for City of Boston. The above grid compares census, HUD, and online data. The census reports on "households" and "families", while HUD reports on individuals, 2-person households, and 3-person households. Comparisons for household and family levels in the above grid may contain inaccuracies. Further research and analysis should be performed.

Construction Hiring Practices

Public development projects of any size, and private development projects over 50,000 square feet in Boston are required to employ at least 51% Boston residents, 40% people of color, and 12% women. For projects ending in 2018, only 22.85% met the requirement for residents, only 48.35% met the requirement for people of color, and only 9.47% met the requirement for women.²⁵ It is currently not clear how or if these private developers are held accountable for failing to comply with these requirements.

Zoning Board of Appeals (ZBA)

Most new private residential developments seek "variances" from the City of Boston in order to build more housing than is permitted by the default zoning code that governs their property. To get a variance, the developer must create a construction plan, meet with area residents, and submit for a permit to the city. The city automatically denies developments that don't meet the Zoning code. This is routine and performative. Developers submit an appeal to the Zoning Board of Appeals (ZBA), a board comprised mostly of realtors, developers, labor organizers, and architects.

¹⁹ https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_5YR_DP03

²⁰ Based on 119 cities including Lexington, Wellesley, and Newton. Used to determine Affordable/Income Restricted Housing in The City of Boston. <http://www.bostonplans.org/housing/income.-asset.-and-price-limits>.

²¹ Based on a household in the 70% AMI tier spending 1/3 of their income on rent

²² Under the City of Boston's Inclusionary Development Policy income caps from the BPDA: <http://www.bostonplans.org/housing/income.-asset.-and-price-limits>.

²³ Calculated by HUD to determine maximum rental prices for voucher-based housing and public housing: https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2019_code/2019summary.odn

²⁴ <https://www.rentcafe.com/average-rent-market-trends/us/ma/boston/>

²⁵ <https://www.boston.gov/departments/economic-development/boston-residents-jobs-policy-construction-projects>

Campaign Contributions

Between 2013 and 2018, individual donors associated with 17 real estate development firms contributed \$31,825 to Mayor Marty Walsh's campaign through 53 individual donations in increments between \$100 and \$1,000²⁶.

Rent Control in Boston

Prior to 1994, the City of Boston enforced rent control and vacancy decontrol on an estimated 45,000 units. This was enabled by a Massachusetts state law that gave cities and towns the ability to implement rent control and vacancy decontrol. In 1994 residents from 351 cities and towns in Massachusetts narrowly voted to overturn this law, despite the fact that the only 3 cities using the provisions (Boston, Cambridge, and Brookline) all voted in favor to keep it.

No-Fault Eviction

Currently, there is no regulation that requires a landlord to have a reason for evicting a tenant. Evictions without reason are called no-fault. These kinds of evictions are the primary mechanism used by real estate developers and landlords to clear, flip, redevelop, and gentrify buildings.

In 2017, Mayor Marty Walsh and the City Council passed the Jim Brooks Stabilization Act, a petition that would require landlords to have a "good cause" for evictions²⁷. The Jim Brooks act laid out a set of conditions that a tenant would have to violate in order for a landlord to evict, including: not paying rent, violating a lease, damaging the property, etc²⁸. Jim Brooks was subject to home rule, meaning that it had to pass through the Massachusetts legislature in order for the City of Boston to receive the power to implement it. The bill was never released from committee in the state legislature, and is currently blocked.

City Real Estate Tax Program

The 2018 City of Boston residential property tax rate is 1.048% per year (\$10.48 per \$1,000 of value) and the commercial property tax rate is 2.52% (\$25.20 per \$1,000 of value). Landlords pay a residential property tax rate on units that they own and rent to other people.

²⁶ Appendix A of Towering Excess Report: <https://ips-dc.org/wp-content/uploads/2018/09/ToweringExcessReport-Sept10.pdf>, based on data from the Massachusetts Office of Campaign and Political Finance: <http://www.ocpf.us/Filers?q=Martin%20J%20Walsh&cat=A>.

²⁷ <http://files.constantcontact.com/e7a569b1501/b742a826-db9a-46ec-a1f8-a996bdd6dd9f.pdf>

²⁸ <https://www.boston.gov/news/mayor-walsh-files-jim-brooks-community-stabilization-act>

3. Recommendations

Increase Development of Public Housing

The City Council and Mayor of Boston should direct revenue from the tax programs and fines described below, as well as city owned land, foreclosed buildings, existing housing subsidies and other public housing resources, to the Boston Housing Authority, Neighborhood CDCs, or other organizations that create permanently deed-restricted affordable housing. These revenues should be used to build, operate, and sell affordable homes to limited-equity co-ops, community land trusts, nonprofit-owned rentals, community owned and operated housing structures, or directly to eligible residents.

The city should aim to have 50,000 new real median income homeowners, and 10,000 minimum wage earning homeowners by 2031. Affordable homes should not be a benefit component of luxury developments, but the fundamental and primary focus of the city's housing strategy.

Increase Inclusionary Development Policy (IDP) Requirements to 36%

The IDP bases affordability levels on Area Median Income (AMI) which is artificially high. Mayor Marty Walsh should update the IDP in 2019 to stop using AMI for local housing control, and instead use a combination of Massachusetts minimum wage (\$11/hr, \$22,880/yr) and the real median income in Boston (\$37,288/yr).

In addition Mayor Marty Walsh should increase requirements for all new buildings in Boston (Zones A, B and C) to 36% affordable with a 50/50 split between minimum wage affordability and median income affordability:

18% of all units affordable for minimum wage individuals and families.

- 1 bed/studio: purchase price of \$89,575, or a monthly rent/mortgage of \$629.20
- 2 bed: purchase price of 195,750, or a monthly rent/mortgage of \$1,258.40

18% affordable for the real Boston median income:

- 1 bed/studio: purchase price of \$157,500²⁹, or a monthly rent/mortgage of \$1,025
- 2 bed: purchase price of 256,500, or a monthly rent/mortgage of \$1,609

The mayor should require all affordable units developed under the IDP to be on-site. Off-site housing deepens racial and economic segregation and should be not be permitted under a progressive affordable housing program.

²⁹ The BPDA already lists micro through one-bedroom affordable housing caps (70% of AMI) at \$108,800 - \$151,500: <http://www.bostonplans.org/housing/income,-asset,-and-price-limits>. This is already affordable according real median income in Boston, but the number of units available at this level is far lower than the number of residents who need them.

Replace AMI with a “Real Median Income” for Local Policy

AMI is artificially high for Bostonians because it includes neighboring wealthy suburbs. The fact that “affordable” rent for a one bedroom apartment under the Inclusionary Development Plan (\$1,277/mo) is 20% higher than an affordable rent for a real median income in Boston (\$1,025/mo) and more than two times the affordable rent for a minimum wage earner (\$629/mo) means that we cannot use AMI for calculating affordable limits.

The U.S. Department of Housing and Urban Development (HUD) issues Boston’s AMI calculations. Recalculating AMI would require a large scale undertaking across HUD. However, the City of Boston could continue to use AMI as it is designed and required by HUD for federal reporting while planning for affordability levels locally that correspond to Boston’s real median income and minimum wage.

Boston’s median income figures—on which our Inclusive Development Policy is based—should be calculated based on the income of Boston residents only. When development occurs in a neighborhood with a median income below the city median, an adjustment should be made to compensate downward. This would be a real median income.

Boston Residents Jobs Policy (BRJP) Requirement Enforcement

77.15% of private real estate development projects that ended in 2018 failed to meet any of the inclusionary hiring requirements (residents, women and people of color) according to the Boston Residents Jobs Policy Construction Projects transparency data³⁰. The only way Bostonians can afford to live in Boston is if good jobs are available.

The Boston City Council is required to review compliance with the Boston Residents Jobs Policy (BRJP) on a biannual basis. If compliance does not improve substantially, the council should consider passing an enhanced ordinance to enforce steep fines on private developers for working with construction companies that do not meet the Boston Residents Jobs Policy. The new city revenue from these fines should go to fund jobs training programs for Boston Residents. Additionally, the city should explore measures for a fair engagement of both organized labor and non-union firms to ensure solutions involve all critical stakeholders.

Reform Zoning Board of Appeals

Private real estate developers, architects, financiers, lawyers, and construction leaders with active real estate development projects in the City of Boston within in the last 3 years should not be seated on the Boston Zoning Board of Appeals (ZBA). We need people with expertise to serve on the ZBA, but there is far too much conflict of interest on the current ZBA. The ZBA should be a mix of experts, city planners, community leaders, and the residents who will be most impacted by these projects. As a further measure, City Council should work with Mayor

³⁰ <https://www.boston.gov/departments/economic-development/boston-residents-jobs-policy-construction-projects>

Walsh to shift decision making power from the ZBA to neighborhood associations with strict race and class based inclusionary requirements for participation.

Restrict Campaign Contributions to Boston City Officials

The Mayor, City Councilors, and other city officials running for and holding office should be barred from accepting money, gifts or campaign contributions of any kind from private real estate developers, architects, financiers, lawyers, and construction leaders with real estate development projects in the City of Boston that are currently active, in permit review, or have been active within in the last 3 years.

Implement Rent Control

The City Council should work with the state legislature to bring rent and vacancy controls back for a vote in the city of Boston. The law should seek to implement a maximum cap on rent raises equal to local inflation (e.g. 3.4% in 2019³¹), and 5% cap on increases in rent collected for a vacant unit proportional to the prior rent a tenant was paying. City Council should also work with the state to bring legislation allowing for an overall cap on the maximum rental rate that is equal to the corresponding real median income of the City of Boston for the prior year.

Implement a Just Cause Eviction Ordinance

Mayor Walsh and the City Council should put increased pressure on the state legislature to unblock and pass the Jim Brooks Act. The Mayor and City Council should subsequently use Jim Brooks to implement a real Just-Cause Eviction Ordinance, which would prevent landlords from evicting tenants without a legally sufficient reason.

Implement Tax Programs

The Boston City Council should work with the state to create a tax program that alleviates tax burden on low income homeowners, discourages the development of investment real estate, and encourages affordability. The city should use the revenue raised from these programs to fund new affordable housing development.

Tax Relief For Low Income Residents

Residents earning below the real median income in Boston who are behind on their property tax payments should be offered relief in order to keep residents in their homes. A current proposal before the city council would expand payment options from 1 year to 5 years and forgive up to 50% of interest, the maximum allowed by state law³². The Mayor and City Council should pass this proposal into ordinance, and continue to develop new legislation aimed at keeping Boston residents in their homes.

Landlord Tax

Properties zoned for residential use of 10 or more units that are purchased and not occupied by the owner should be taxed as commercial properties at the city commercial/industrial rate of 2.52%.

³¹ https://www.bls.gov/regions/new-england/news-release/ConsumerPriceIndex_Boston.htm

³² <https://www.boston.gov/public-notices/49391>

Vacancy (“Investor”) Tax

Investors and speculators who purchase properties in Boston and keep them empty for 6 months after purchase should incur an annual tax of 3% on top of property taxes until they are rented and occupied.

AirBnB Tax

The City of Boston passed an ordinance in January 2018 requiring operators of short-term (under 30 day) room shares, home shares and rental units to register their units and pay a \$25 - \$500 annual fee. Investment properties used as short term rentals should also be taxed as commercial property, and incur an additional 6% annual tax. The state legislature is considering a bill that would enable the City of Boston to collect taxes on short-term rentals.³³ The Mayor and City Council should lobby the state legislature to pass this bill, and then implement it in Boston.

Off-Campus Housing Tax

Private Universities with campus nexus to the City of Boston that do not provide sufficient campus housing should pay \$12,000 annually per un-housed student to a fund for rent subsidies to Boston Residents.

Mansion (Transfer) Tax

High end real estate sales should incur a transfer tax of; 1% on sales over \$1 million, 2% on sales over \$1.75 million, 2.5% on sales over \$5 million, 3% on sales over \$10 million, and 6% on sales over \$15 million.

Eviction Tax

Landlords should not be permitted to evict tenants without scrutiny and accountability under Just Cause laws. When a landlord evicts a tenant, if they choose to increase the rent, the landlord should be taxed at a rate of 50% of the difference between what the evicted tenant was paying and what the new tenant will pay.

Foreclosure Tax

Banks foreclosing on a home in the City of Boston should incur a 6% transfer tax for all foreclosure sales.

³³ <https://malegislature.gov/Bills/190/H4841>

4. Active Legislation and Programs That We Support

Jim Brooks Act

We support the Jim Brooks Act from Mayor Marty Walsh and the City Council to make no-fault evictions illegal and prevent landlords from evicting tenants without cause. This act is subject to home rule and has been submitted to the Massachusetts legislature where it has been blocked for the last year.³⁴

State Bill to Implement Short-Term Rental (AirBnB) Tax

We support H4841 from Aaron Michlewitz et al which is currently before the Massachusetts Legislature and would tax short-term rentals that cost more than \$15/night a 5% fee at the state level. This bill would also allow the City of Boston to collect up to 6% sales tax on short term rentals.³⁵

Payment In Lieu Of Taxes (PILOT)

We support the City Council's effort to question non-participation in the PILOT program by large tax exempt and property owning non-profits in the City of Boston—including Harvard, BU, Mass General Hospital, etc.³⁶

City Ordinance Proposal for Low Income Resident Tax Relief

We support the proposal from Councilor Lydia Edwards and Councilor Ed Flynn to implement the maximum property tax relief possible for low income residents with back taxes under the Massachusetts legislation.³⁷

State Bill to Implement a Transfer Tax Option for Cities

We support the bill from state representative Mike Connolly to allow for a local option for Boston to implement a high end real estate transfer tax.³⁸

³⁴ <http://files.constantcontact.com/e7a569b1501/b742a826-db9a-46ec-a1f8-a996bdd6dd9f.pdf>

³⁵ <https://malegislature.gov/Bills/190/H4841>

³⁶ <https://www.boston.gov/departments/assessing/payment-lieu-tax-pilot-program> and <https://www.wgbh.org/news/local-news/2018/08/03/exempt-from-local-tax-universities-voluntary-contributions-get-col-d-shoulder-in-boston-council>

³⁷ <https://www.boston.gov/public-notices/49391> and https://www.boston.gov/sites/default/files/document-file-09-2018/docket_1094.pdf

³⁸ <https://malegislature.gov/Bills/190/H4196>

5. Conclusion

Our current path is not leading to an inclusionary future. Without immediate and progressive social reform, racial and economic segregation will only increase, worker housing will decrease, and Boston's history, culture, and diversity will be erased.

The Mayor and City Council should take the steps outlined in this document to build wealth for Boston residents from historically marginalized communities and keep our city safe from housing insecurity.

6. Acknowledgements

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