

Opposing Home Rule “Petition for a Special Law Re: Eligibility for Cooperative Housing Corporations.”

**Offered by Boston City Council President Stephen Murphy
and Councilor Brian Linehan**

This home rule petition would effectively eliminate the ability of residents of Boston to participate in housing cooperatives (coops) and adversely impact hundreds of resident in Boston- for no legitimate reason.

The City of Boston has funded more than 500 affordable cooperative units across Boston. For low and moderate households, cooperative ownership is a reliable option and Boston has affordable coops as well as artists coops which have both proven to be successful and running well.

Artists coops were specifically created to address an artists need for workspace in which residents can buy-in knowing that the space is permanently dedicated to this use. Artist have unique needs and they often utilize live/work spaces where their professional activity may otherwise be disruptive to other traditional residents.

Two prominent examples of these cooperative include 249 A Street and 300 Summer street in Boston. Developed in 1980, 249 A Street was the first affordable cooperative in Massachusetts and currently consists of 44 artist live/work units serving a variety of artists. In addition, the Artist Building at 300 Summer Street was created in 1995 as a limited equity cooperative serving more than 30 artists. In exchange for living in an artists coop, these artists do not gain financially if property values rise so that they can assist in preserving affordability for future artist residents.

This legislation was only introduced at the request of one individual who believed he had been unfairly denied admission into a coop. There has never been any evidence that there has been an abuse of the coop system and there is no record of anyone having proposed similar legislation at the city or state level. On the other hand, this legislation will change the terms under which hundreds of individuals invested their life savings in their choice of housing.

While the proponent of this petition has cited unfair practices at specific housing cooperative, federal and state Fair Housing laws already protect against housing discrimination based on a number of factors. If someone has a legitimate claim of discrimination, they are guaranteed recourse through Fair Housing law.

Co-ops follow the same fair housing laws as all other forms of housing and are prohibited from denying sale of their co-op shares to an applicant on the basis of race, color, national origin, religion, sex, familial status or handicap. However, like all forms of housing, co-ops can select not to sell to students, sex offenders, or those with poor reports from prior landlords or neighbors, etc. If passed, co-ops would be the **ONLY** form of housing in Boston forced to sell to any applicant that meets financial eligibility standards.

That is why Mayor Thomas Menino, the Massachusetts Cultural Council, the National

Association of Housing Cooperatives, Artists Under the Dome, as well as scores of co-ops across the Commonwealth have opposed the exact same legislation to eliminate housing coops throughout Massachusetts.

The Boston Globe (addressing similar legislation filed in the legislature to ban all coops) said “there is not sufficient reason for the Legislature to step in and fundamentally alter such longstanding arrangements, as a bill moving through the committee process would do” (Snobby or not, co-ops are rare; state needn’t intervene more, Boston Globe, Oct. 15, 2011).

The proposed home rule petition would abolish the ability of all housing coops in the City to determine their membership in these private housing corporations. Housing coops could no longer determine who could or could not become a stockholder in their corporation beyond the party’s financial eligibility. Choosing shareholders is vital not just to the financial well being of a coop, but to maintaining the coop’s living standards and the expectations of all its residents.

This legislation imposes limitations far beyond issues of personal and financial incompatibility that discriminate against cooperative housing ownership. Under the petition, even non-controversial reasons for rejection are eliminated. Under this legislation, a housing coop could not become a non-smoking building, refuse to allow dangerous pets, reject a level 3 sex offender from living next to young children, or reject a media figure in order to avoid paparazzi. If passed, housing coops would be the only form of housing to operate under these kinds of restrictions.

Though housing coops comprise a relatively small segment of the housing stock, they offer an important alternative to condominiums. Coops represent a bridge between single-family and apartment-style ownership, allowing owners the security of maintenance and quality of life afforded by ownership of a single-family home. The 116 coops in Massachusetts provide a valuable housing option for many of the Commonwealth’s residents, a majority of whom will be affected by this petition.

The nature of Housing coops is self-governing as those who live in the coop also own shares of the building and control the coop through their own board. If this petition is passed into law, it will eliminate the ability of all housing coops in the City of Boston to self-govern.

This petition would remove a legitimate form of housing during a housing crisis. Opposition to this bill is about “protecting housing choice.”

One of the most important reasons people elect to live in coops over condominiums will be substantially eliminated by this legislation. Coops differ from condos in the maintenance of the building; the whole building is owned by shareholders in a coop, who are able to avoid

arguments over who should finance repairs for common areas and to be sure their residential standard of living remains at the level they have chosen.

The petition unfairly targets corporations whose shareholders are those that live in the building the corporation owns. The petition also removes important property rights. While Chapter 156B corporations will not be subject to the restrictions imposed by the petition and may rent to anyone they choose regardless of whether the owners of their stock live in the building, Chapter 157B housing corporations will be deprived of the right to control their corporation by choosing with whom they share their building and ownership of the corporation's shares. This contradicts Section 5 of Chapter 157B, which gives cooperative corporations all the rights of 156B corporations.

The required changes to coops' articles of organization will impose a financial burden on existing coops as they will have to engage legal counsel in order to amend the language of their corporate governance in order to comply with the new regulations. It is likely that the cost of legal work will exceed most, if not all, legal budgets for coops in the Commonwealth. The coops to be hit hardest are those least able to afford additional costs and those providing affordable housing or addressing communities of interest, as the lack of specificity in Section 2 will cause them the most difficulty in preparing the amendments needed to comply with this bill.

This legislation would create a slippery slope. It is a small step going from denying a coop the ability to select shareholders to denying landlords or property owners from being able to select their ideal tenant.

Summary of Language:

Section 1 defines "community of interest" and inserts it into Section 4 of Chapter 157B of the General Laws. It states that it is a cooperative corporation created with the purpose of furnishing residential housing for a communal purpose.

Section 2 states that every community of interest located within the City of Boston must provide a statement of communal purpose in sufficient detail such that a reasonable person may understand the purpose. This statement must be included in the original articles of the corporation by an amendment approved by 60% of the current stockholders.

Section 3 states that any cooperative corporation in the City of Boston defined within Section 4 of chapter 175B may set stockholder eligibility standards according to subsection (g) of section 10 of chapter 157B. Clause (g) currently states the standards must reasonably relate to: "(1) the capacity to satisfy the stockholder's financial and maintenance obligations with respect to the property; (2) the creation of the housing cooperative as a community of interest, provided however, that a detailed statement of the communal purpose and eligibility standards of the community of interest shall be contained within the articles of organization of the corporation and/or (3) standards as a provider of affordable housing."

Section 5 states that individuals who are denied of becoming a stockholder in a cooperative cooperation in the City of Boston, as defined by Section 4 of chapter 157B, must be notified in writing and must include the grounds for denial and the specific eligibility standards the applicant failed to meet.

Section 6 states that 90 days after the effective date of this act, the state secretary will send written notice to all coops in the City of Boston organized under chapters 156D or 157B to inform them of the requirements to file articles of organization containing the information required by this act.