



Multi-family Zoning Requirement for MBTA Communities

An Introduction to Section 3A of the Zoning Act

**Presented by The Executive Office of Housing and Livable Communities to:
CHAPA MBTAc Monthly Learning Session
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- **When multi-family housing is allowed, it is usually subject to an expensive, unpredictable, and time-consuming process**
 - Special Permits, public hearings, developer negotiations, excessive parking requirements
 - Development barriers limit housing production
 - Development costs are passed on to buyers and renters
- **Section 3A establishes a new paradigm**
 - removes the *zoning barriers* to some multi-family housing development
- **Municipalities can comply with Section 3A with districts designed to their liking**
 - Focus is on allowing multi-family housing in climate friendly, walkable neighborhoods
 - Located near transit stations when possible
 - Located near amenities and community resources





WHO

Communities with an affordability requirement of

- more than 10% of units or
- deeper affordability than 80% AMI

must submit an Economic Feasibility Analysis with their District Compliance Application

WHAT

- Narrative analyzing housing market
- Multiple examples of possible multi-family developments, presented in a pro-forma and assumptions checklist

WHY

- Inclusionary zoning can lead to more affordable housing, but can also impede development



- Density bonuses and special permits
- What projects do EFAs draw on?
- Qualified and independent third-party
- Affordability restrictions and 3A's scope of review



The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law...

Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

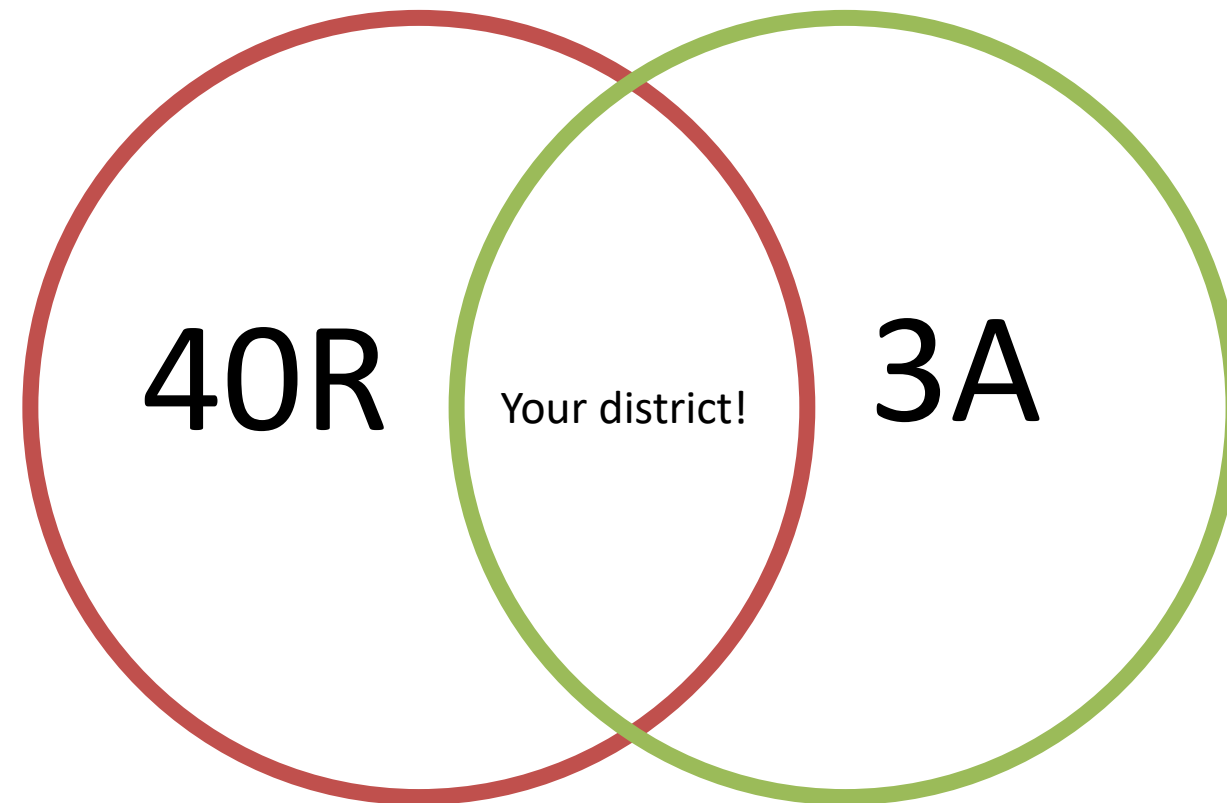
Site plan review may be cause for re-consideration of compliance in the future, if the review consistently limits density or capacity.

- What about design review?

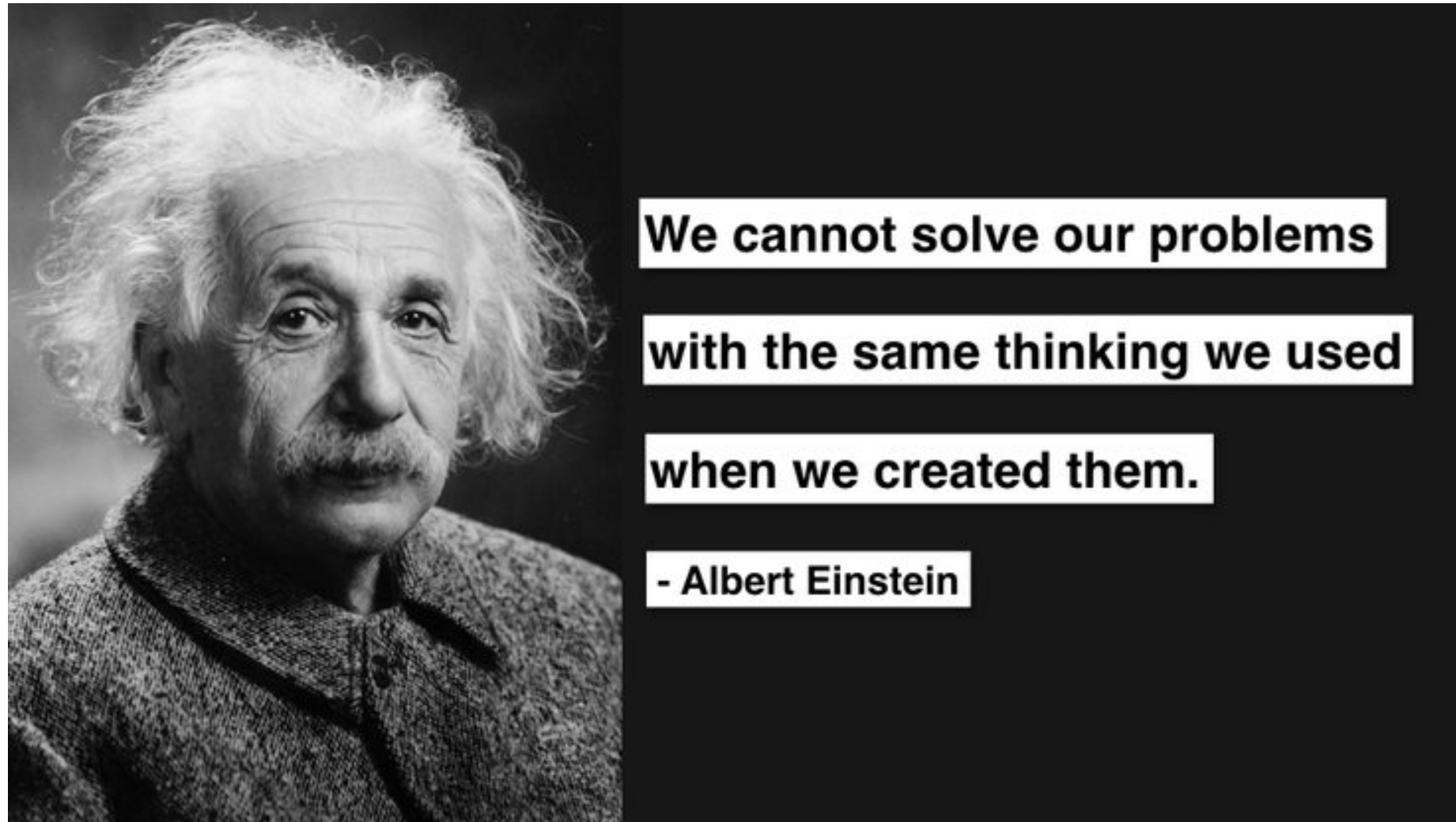
3A and 40R requirements – think “and”, not “or”!



- What are the advantages to seeking 3A compliance through 40R?
- 40Rs and EFAs
- 3A and 40R density requirements



Contact Information



If you need more information to help others in your community to understand this legislation, please let us know! You can email program staff at: DHCD3A@mass.gov**
mass.gov/mbtacomunities will continue to have information and resources