



May 9, 2023

The Honorable Michael Day
Chair, Joint Committee on Judiciary
State House, Room 136
Boston, MA 02133

The Honorable James B. Eldridge
Chair, Joint Committee on Judiciary
State House, Room 511-C
Boston, MA 02133

Re: H.1690/S.956, *An Act promoting housing opportunity and mobility through eviction sealing (HOMES)*, and H.1731, *An Act promoting access to counsel and housing stability in Massachusetts*

Dear Chairs Day and Eldridge:

On behalf of the Metropolitan Area Planning Council (MAPC), I write today in support of H.1690/S.956, *An Act promoting housing opportunity and mobility through eviction sealing (HOMES)*, filed by Representative Moran and Senator Edwards, and H.1731, *An Act promoting access to counsel and housing stability in Massachusetts*, filed by Representatives Day and Rogers. We respectfully ask that the Joint Committee on the Judiciary favorably report these two measures, both of which would advance housing stability and equity in our Commonwealth.

MAPC serves as the Regional Planning Agency for the people who live and work in the 101 cities and towns in Metropolitan Boston, which includes roughly half the state's population and two-thirds of the state's jobs. We are committed to smart growth and regional collaboration and are guided by [MetroCommon 2050](#), the region's plan for a more equitable, prosperous, and sustainable future. Ensuring access to stable, affordable housing is integral to that commitment.

The Commonwealth faces an unprecedented housing crisis. Sale prices and rents in our communities are among the highest of any large metropolitan area in the country. Just under half of Greater Boston renter households (44.5%) are "housing cost burdened," meaning they spend over 30% of their income on rent, and just under a quarter (22.7%) pay over 50%, which we define as "severely cost-burdened."¹ Furthermore, the combination of quickly rising interest rates and rents, the prospect of a recession, and the end of many COVID related protections are all conspiring to drive up evictions, which has a profound effect on many lower-income residents who were already hard hit during the pandemic.

MAPC is grateful for the Legislature's recent unprecedented investments, both capital and budgetary, in housing production and housing assistance. Housing production, alone, however, cannot address the full scale of the crisis. While we work to expand and diversify the supply, residents continue to face eviction and displacement. With so many households already pushed to the brink of their financial capabilities to afford the housing they need, it is critical that the Commonwealth institute measures that increase renters' ability to stay in their homes, and to find new homes when they have been displaced. We respectfully submit that two bills before you for your consideration would meaningfully

¹ The Boston Foundation, *The Greater Boston Housing Report Card 2022*, October 2022.

increase housing stability and provide desperately needed relief for struggling renters.

Access to Counsel in Eviction Proceedings (H.1731)

An Act promoting access to counsel and housing stability in Massachusetts will help to address housing security by creating a statewide access to counsel program for eviction cases. This bill would provide low-income tenants and owner-occupant landlords with access to legal representation in eviction cases.

While Massachusetts tenants have certain rights, including their day in court, few seek legal remedy in eviction proceedings either because they do not have legal counsel or do not understand their rights. The limited capacity of existing legal aid services means that very few tenants seeking legal representation actually receive it. According to FY22 Trial Court data, while 86% of landlords were represented in eviction proceedings, only 11.5% of tenants had representation for their day in court.²

Implementing an access to counsel program to account for such disparities is not an untested idea. In 2017, New York City implemented an income-restricted program to provide access to counsel in eviction proceedings, which in FY2022 preserved the tenancies of 78% of households participating in the program.³ More limited efforts to provide access to counsel in Massachusetts through the COVID Eviction Legal Help Project (CELHP) have shown similar results. In CELHP's lifespan of just over one year, 92% of tenants receiving extended services through the project ended either with a tenancy preserved or additional time received to relocate successfully. These results, in one of America's other hottest housing markets, and on a more limited scale in Massachusetts, demonstrate that access to legal representation in eviction proceedings helps to level that playing field and increase housing stability.

Through H.1731, the Commonwealth has an opportunity to help landlords and tenants to resolve disputes, hopefully without needing an eviction, by ensuring that both sides are represented by counsel. An access to counsel program as proposed in H.1731 would provide low-income tenants and owner-occupant landlords with legal help and access to the resources they need to resolve disputes and stay in their home or seek more time in finding their next home. Evictions are tremendously disruptive events, removing people from their support systems, uprooting children from schools, and sending families into shelters. This instability has a significant toll not only on the physical and mental health and wellbeing of displaced people, but also on their ability to find and keep jobs, making the cycle of displacement even more difficult to escape. Those stuck in this cycle often have no choice but to rely on state assistance to get back on their feet.

Adopting the access to counsel program would decrease these social costs and result in significant monetary savings to the Commonwealth by reducing displacement, and thus reducing demand for the assistance programs on which displaced people are forced to rely. A 2020 Boston Bar Association study estimated that the minimum annual savings from access to counsel implementation in Massachusetts would be roughly \$63 million or \$2.40 for every \$1.00 spent on

² Massachusetts Trial Court.

³ New York City Office of Civil Justice, "Universal Access to Legal Services: A Report on Year Five of Implementation in New York City." New York City Department of Social Services. Winter 2022.

the access to counsel program, reflecting reduced spending on emergency shelter, health care, and foster care needs.⁴

If a full-scale statewide program is not possible at this time, MAPC would support a pilot program, which could further demonstrate the program's effectiveness and cost-savings, while also providing critical representation on a more limited scale. We would hope that a successful pilot could be extended into a permanent, statewide program.

Eviction Sealing (H.1690/S.956)

An Act promoting housing opportunity and mobility through eviction sealing (HOMES) would likewise provide meaningful relief to renters struggling with housing instability. H.1690/S.956 would establish a process for renters with prior fault, no-fault, or non-payment of rent evictions, to seal their eviction record. Doing so would allow countless displaced residents across the Commonwealth the chance to pursue housing and secure housing stability without bias.

Currently, a tenant's eviction record remains visible in perpetuity, without any explanation of the final outcome. This is true whether the underlying issue behind the motion to evict was resolved, or the tenant met the agreements. This also holds true for no-fault evictions, meaning a tenant evicted for their inability to meet a rental increase will also carry this record, regardless of abiding by their lease and paying the agreed-upon rent under that lease. Furthermore, if a case was transferred from one court to another, the tenant's file will show two separate cases, further adding to that person's record. In 2013, the Massachusetts Trial Court implemented an online system to post eviction record information, with the initial intent of making it easier for parties to manage their cases. However, publication of eviction cases, which are free for the general public to access, has essentially resulted in creating a tenant screening resource that works against the interests of tenants seeking housing in an extremely constrained housing market.

The Massachusetts Law Reform Institute's 2019 report, *Evicted for Life*, highlights that women and communities of color are disproportionately impacted by eviction proceedings: "In Massachusetts, African-American and Hispanic households are twice as likely to be renters as White households, putting them at higher risk of evictions. These inequities raise serious concerns about the disparate impact that evictions – and eviction records – may have on people of color. Women and children, especially women of color, may also be disproportionately harmed by the unrestricted availability of eviction records."

As that same report notes, "court records simply do not tell a complete story of a tenancy. . . . The result is that landlords may deny prospective tenants an apartment simply because their names appear on MassCourts without understanding the context or final outcome on the case." It is imperative that displaced renters have a mechanism to correct this record and ensure that court records do not create a presumption of guilt, rather than innocence, in eviction proceedings. The sealing process established by this bill would create just such a process, opening new housing opportunities to countless displaced people throughout the Commonwealth.

Both of these bills are particularly critical now. With high interest rates, rising rents, and

⁴ Boston Bar Association, "Investing in Fairness, Justice, and Housing Stability: Assessing the Benefits of Full Legal Representation in Eviction Cases in Massachusetts." June 2022.



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the looming potential of a deeper economic recession, Massachusetts' already onerous housing market will only become harder to navigate in the coming months, particularly for those already struggling. With many of these same people having just begun to recover from the impact of the pandemic, we must take action to ensure the resources invested in that recovery have a lasting impact. We strongly believe that these two bills would help to guard the progress toward housing and economic stability, which previous investments have generated, and meaningfully soften the blow of these concurrent negative economic pressures.

MAPC respectfully requests that your Committee report favorably on both **H.1690/S.956** and **H.1731**, so we can begin to provide additional relief to residents of the Commonwealth struggling with our ongoing housing crisis.

Thank you for your consideration of this letter. If you or your staff have any questions, please do not hesitate to contact me at mdraisen@mapc.org or Policy Analyst Matt Walsh at mwalsh@mapc.org.

Sincerely,

Marc D. Draisen
Executive Director

cc: Senator Sal DiDomenico
Senator Lydia Edwards
Representative Michael Day
Representative David Rogers
Representative Michael Moran