

## Case Study: Massachusetts

Although Massachusetts is a home-rule state where local communities largely govern themselves, the State of Massachusetts has found several ways to work with communities to improve the efficiency of the permitting process. The State is also in the process of reviewing regulations to find appropriate, reasonable ways to achieve the intent of the law while facilitating business and housing development. Among other things, the state:

- (i) created the Massachusetts Permit Regulatory Office (MPRO), whose director is an ombudsman for developers with state permitting, licensing, and regulatory processes;
- (ii) has implemented local and state expedited permitting programs;
- and (iii) provides infrastructure grants that help to facilitate commercial and housing development.



### Massachusetts Permit Regulatory Office

MPRO was created under Governor Romney's administration in 2006. Although the office was originally intended to assist commercial, industrial, and mixed-use development, as of 2012 it also supports housing development.

"It was designed to help facilitate government in a way that it would function at the speed of business," said Timothy Wilkerson, director of MPRO and the ombudsman. "We're there to facilitate discussions between the issuing agency and the developer to get an answer and get clarity and be a point of contact for private companies," he said.

"We don't go around the permit process," Wilkerson said. "It's just to facilitate, when people run into barriers that shouldn't be there."

In addition to helping developers get answers to questions about the permitting process, as ombudsman, Wilkerson also analyzes state regulations for their impact on commercial and housing development. In part because of this role, a number of changes have been made, particularly in environmental regulation. These changes have removed barriers and reduced timelines for development.

State leadership at the highest levels has been critical to encouraging smart regulatory reform. Governor Charlie Baker has made it a priority to be more business friendly and asked state agencies to think more practically about the regulatory process. One example Wilkerson cited is the Department of Environmental Protection. "They have done an incredible job rethinking their regulatory role and thinking about how now to be more nimble," he said.

### State and Local Expedited Permitting, 43D and 43E

As a home-rule state, Massachusetts is not able to regulate or mandate changes in local policies. Because of this, Massachusetts relies much more on carrots than sticks to improve the efficiency of the land development process in the state. An example of this is Local Expedited Permitting, or Massachusetts General Law 43D.

Local Expedited Permitting is optional for Massachusetts municipalities. Participating governments designate priority development sites and then guarantee prospective developers a decision within 180 days of submission of a complete application. Designated sites are given priority for state resources, such as grants to make infrastructure improvements, brownfield remediation assistance, and workforce training, and are included in the state's marketing efforts.

Communities that opt in to 43D adopt best practices relating to the land development review and approval process. These include:

- Designating a single point of contact for streamlined permitting
- Amending local rules, regulations, bylaws, etc. to comply with 180-day permit timeline;
- Determining and make available the requirements for each permit;
- Establishing a procedure for identifying necessary permits for a project; and
- Establishing a procedure for determining completeness of the required submissions.

In addition to streamlined permitting for specific projects, one positive side effect from 43D is that communities have implemented best practices across their land development review and approval process generally. For example, Watertown, MA, adopted best practices specifically for encouraging development on 43D sites and then implemented them community-wide, which Erica Kreuter of MPRO reports has helped facilitate a boom in both commercial and housing development.

Areas that are designated both by a local government for 43D and by the State of Massachusetts as growth districts qualify for both local *and* state expedited permitting under Massachusetts General Law 43E. Growth districts or priority development sites are places the Commonwealth identifies as being priority areas for new development.

State expedited permitting is facilitated by the Interagency Permitting Board, which is chaired by the director of MPRO and includes representatives from state agencies including the Office of Consumer Affairs and Business Regulation, Housing and Community Development, Department of Transportation, Energy and Environmental Affairs, Department of Public Safety, MassDevelopment, and Labor and Workforce Development.

The permitting and approval process on these sites is efficient in part because the Board has pre-approved priority development sites. These sites must:

- Avoid environmentally sensitive areas;
- Have access to appropriate infrastructure such as water, sewer, and utilities; and
- Be accessible via existing roads.

State agencies are required to render a decision on projects on sites that qualify for state expedited permitting within 180 days. Public comments can extend that timeframe to 210 days. In part to help state agencies meet this timeline, the board also evaluates state agency permit procedures and recommends changes for improved efficiency.

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*-Timothy Wilkerson, Director of MPRO*

Wilkerson noted that the expedited permitting has helped to both target development and speed the process. “The speed of the process has been transformed,” he said.

### **MassWorks public infrastructure grants**

The state of Massachusetts also offers public infrastructure grants designed to facilitate housing and economic development. A total of \$70 million is available for FY 2015, and “shovel-ready projects” are prioritized.

Erica Kreuter, MassWorks director, said the grants are targeted to private and public projects that are able to start quickly, make an impact, and consistent with the state’s sustainable development principles. “We are making strategic investments in priority development areas,” she said. “Sometimes lack of infrastructure prevents development. It’s a way to facilitate development.”

Projects funded have included roads, sewers, increasing water capacity, and public transit. For example, one grant helped to fund the Orange line MBTA station in Somerville, an investment that has transformed the area. In addition to new commercial development and company headquarters locating in the area, 400 new housing units have also been built.

“We’ve been able to make an investment that’s generated a return,” Kreuter said.

### **Future Efforts**

In addition to continuing infrastructure grants and expedited permitting, the state of Massachusetts is also working to support communities’ efforts to adopt technology. MPRO has at times been able to provide technical assistance grants that communities have used to procure e-permitting systems and also offers a basic free downloadable permit tracking system. Although the technical assistance grants are no longer available, MPRO continues to be a resource to communities on e-permitting systems, conducting surveys about what software municipalities are using and collecting information about vendors’ software options.

The office continues to consider how to bring resources to communities to aid them in their efforts to improve the permitting and approval process through technology.



This document is a portion of NAHB's report  
*Development Process Efficiency: Cutting Through the Red Tape.*

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## Development Process Efficiency: Cutting Through the Red Tape

