Commonwealth Housing Task Force

Quarterly Summary of Progress as of March 31, 2006

During the first Quarter of 2006, the Commonwealth Housing Task Force focused its efforts on (1) the implementation of Chapter 40R (the Smart Growth Zoning and Housing Production Act) and protecting the source of funding for local incentives; (2) outreach to communities to provide information about the new program; (3) review of planning and regulations for Chapter 40S – to hold communities harmless from school cost increases related to Chapter 40R; (4) the extension of Section 548 – the expedited sales of surplus state land; (5) the call for an increase in state funding for affordability; (6) strategic planning for new initiatives of the Task Force; and (7) an expansion in participation in the Task Force itself. A plenary session of the Task Force was held on Wednesday, March 1, 2006 at which a detailed progress report was presented to the membership. Barry Bluestone, Eleanor White and Ted Carman, working through the Center for Urban and Regional Policy at Northeastern University, have carried out the staff work in coordination with active subcommittees and Boston Foundation staff. Angus Jennings, working with Ted Carman at Concord Square Development Company, Inc. has also played an important role in this work.

Implementing Chapter 40R: Are Communities Applying? Yes!

Continuing the trend that began toward the end of 2005, communities are applying in greater numbers to DHCD for up to $50,000 each from the Priority Development Fund (provided by MassHousing and administered by DHCD so that communities can retain expert assistance to prepare Chapter 40R applications and implement the program).

Members of the CHTF staff have continued to meet with groups of local officials to explain the program and have also met upon request with individual communities to explore the benefits of Chapter 40R for their specific circumstances. These requests are also increasing as communities focus on the fact that Chapter 40S will insulate them from school cost increases.

We ask again that you please let CHTF staff know where you have heard of particular interest in learning more about Chapters 40R and 40S (or where you believe that Chapter 40R would be especially beneficial to a city or town), and we will respond with outreach to those communities. Just send a message to ewhite@housingpartnersinc.com and we will follow up with the community to offer support as may be needed. It will be helpful if you include the name of a contact person in the community with phone number and email address, but if you cannot provide that, just send the name of the city or town.

We are asked repeatedly which communities have expressed interest in Chapter 40R to date. Many communities are actively exploring 40R: notably, Attleboro, Boston, Brockton, Chelsea, Chicopee, Dartmouth, Gardner, Haverhill, Kingston, Lakeville,
Lunenburg, Mansfield, Medfield, New Bedford, Newbury, Newburyport, North Andover, North Reading, Northampton, Norwood, Pittsfield, Plymouth, Raynham, Sharon, Somerville, Sterling, Taunton, Walpole, Watertown, and Weymouth/Abington/Rockland as part of the Tri-Town development area. Many others have expressed interest in the program. DHCD reports that formal applications have been filed at this time by six communities. In addition, we anticipate that many developers—both nonprofit and for-profit—will be exploring the use of Chapter 40R in partnership with communities as an alternative to Chapter 40B.

We expect this list to expand significantly over the coming year. We have established a goal of 20 communities being in active stages of planning for Chapter 40R districts, with 5 or 6 districts actually passed at the local level, by the end of 2006. Already, as the list above indicates, we have identified over 30 communities that have indicated some level of interest, with the potential of over 7000 new units zoned. We are working on a description of all the communities we learn about that are exploring Chapter 40R and will include a more detailed presentation in the form of a table or “scorecard” in the next Quarterly Report and ongoing thereafter. This will enable CHTF membership and others to more accurately track progress under Chapter 40R.

We are also working with DHCD and MassHousing as those agencies draft guidelines for communities interested in the development of design standards relative to Chapter 40R. The ability to establish design standards is an important feature of Chapter 40R, but we are very sensitive to the need to maintain sufficient flexibility so that a range of housing developments can be built in 40R districts. We anticipate that the first draft of these design guidelines will be issued shortly.

**Implementation of Chapter 40S: the School Cost “Insurance Policy”**

As reported in the last quarter, the Legislature passed Chapter 40S unanimously in both the House and Senate and it was signed into law by the Governor in November, 2005. This bill, implementing one of the original recommendations of the Commonwealth Housing Task Force Report, is a critical component for local communities considering participation in the Chapter 40R program. Regulations are now being drafted by the Departments of Education and Revenue (with Revenue taking the lead) and we are pleased that the Commonwealth Housing Task Force staff has been asked to assist in this process, once an initial draft of the regulations is available. Our primary focus is in assuring that there is no ambiguity in the interpretation of this statute and no confusion about how it is to be implemented.

Chapter 40S provides for the State to cover any net education costs that are incurred by communities as a result of Smart Growth Districts adopted under the provisions of Chapter 40R. The new incremental costs of 40S are expected to be less than $2 million in 2008, and approximately only $35 million ten years from now, in 2016, when Chapter 40R is expected to be fully underway. This would represent only 8/10 of 1 percent of the Chapter 70 State education budget estimated for that year.
Actual costs will be incurred by the state *only* if communities experience actual net school costs. Conversely, *any* community that can demonstrate a net deficit in school costs within Chapter 40R districts can benefit from Chapter 40S.

In the coming months we will also be following up with legislative leaders in the Housing, Ways & Means, and Revenue Committees; State Treasurer Timothy Cahill; and staff members of the Massachusetts School Building Authority to continue our discussions concerning overall funding for Chapter 40R and 40S, and to initiate discussions about coordinating the regulations for School Building Assistance with Smart Growth Zoning. Treasurer Cahill has agreed to explore ways in which the Treasurer’s office and the School Building Authority can be helpful to the long-term success of 40R and 40S. We are also exploring other ideas for assuring an ongoing stream of revenue to support the Chapter 40S program into the future. This is a long-term effort, but could play a major part in instilling confidence in communities about the program.

**Extending Provisions for the Expedited Sale of Surplus State Land**

While we have been able to secure initial funding for Chapter 40R from the existing sale of state surplus land as covered in the last Quarterly Report, we did face a disappointment over the attempt to extend Section 548, which would provide for the continued expedited sale of surplus state land in the future. The outstanding law expired in July 2005, and Section 548 has become quite controversial. As reported previously, we have been working with many others to develop compromise positions that would give local communities more input into the sales process, while still providing for sales (and sales proceeds) as expeditiously as possible. And we will continue to work to extend the basic provisions of Section 548. The current bill in play on this issue, House 4491, has been passed by the House but has not yet been acted upon by the Senate (as of 3/31/06). The provisions of this bill would result in a considerably longer process of disposition than under Section 548 and would not yield proceeds to the Smart Growth Housing Trust Fund as quickly (or at the same level) as the Chapter 40R/548 process. We are continuing to work with the Legislature and the Administration to deal with these issues.

The Administration estimates that by the end of 2006 there should be between $12 and $20 million in the Smart Growth Housing Trust Fund to fund the Chapter 40R incentive payments. Currently we understand that there is a total of $3,349,370.40 in the Trust Fund, with another $1 million or more to be deposited in the coming months. This amount should be adequate to fund 40R incentives in the near future, but it will be critical to establish a stable, long-term funding source for the future.

**Funding for Affordability**

The CHTF, under the auspices of the Strategic Planning Committee led by Robert Beal, continues to focus on advocacy for a significant increase in state funding to support housing affordable to households at 80 percent of median income and below.
At the March 1, 2006 plenary meeting of the CHTF, the Committee presented the following recommendations, which were endorsed unanimously by those in attendance (approximately 100 people). The Commonwealth Housing Task Force has recommended that the state increase its funding for affordable housing and supports a long-term, comprehensive approach to address this situation. However, it is also important to take short-term action. Therefore, the CHTF recommends the following programs for the FY 2007 state operating budget. These recommendations were transmitted to legislative leadership in a March, 2006 letter signed by the CHTF co-chairs and convener.

**Massachusetts Rental Voucher Program (7004-9024)**

*FY 06: $26.2 million  FY 07 Request: $36.2 million*

The MRVP program consists of two parts: project-based vouchers and mobile (or tenant) based vouchers. It operates statewide, and to be eligible for the program, a household’s income may not exceed 200% of the federal poverty level ($38,700 is 200% of poverty for a family of four). In January 2005, there were 4,715 vouchers in use (1,544 tenant-based and 3,171 project-based). There is authorization for nearly 8,000 vouchers, but these cannot be issued because of a lack of funding.

MRVP helps low income tenants pay their rent in private apartments at an average monthly cost that is much less than the cost of one month in emergency shelter. Last year, the Legislature increased the account by $2 million. This funding stabilized rent levels for participants with mobile vouchers, and DHCD estimates that at least 130 mobile vouchers will be able to be reissued during FY 06. However, there are a great many authorized vouchers that are not being issued because of the lack of funding, and there is the possibility that existing project-based homes could be lost. MRVP has a significant impact on low-income citizens having a choice of where to live.

We recommend that the MRVP line-item be increased by at least $10 million. This money could be spent to preserve existing project-based homes and to issue approximately 1,000 vouchers, a portion of which could immediately be used to increase the affordability of other existing housing.

**Public Housing Modernization Pilot Program**

*FY 07 Request: $4 million*

Massachusetts has almost 50,000 units of state-funded public housing. Nearly two-thirds of these units are specifically for elders and people with disabilities. Much of the housing dates from the 1950s with some additional family units developed in the 1970s and 1980s. Households cannot earn more than 80% of the HUD area median income, adjusted for family size ($66,150 for a family of four in Boston); however, resident incomes are generally far less than the maximum allowable. For example, in March of 2000, only 11 families out of 214 in a state
family development in Lowell earned more than $25,000. 98% of the families in the same development were under the very low income (50% of area median) threshold. There are 254 local housing authorities in Massachusetts. This is the housing program having the most impact on individuals and families of very low income.

We support creating a 5-year public/private pilot program to demonstrate cost effective, mixed-finance revitalization methods for state-aided public housing. First year funding for the program would be $4,000,000. The Department of Housing and Community Development would use this money to provide capital grants or long-term, deferred-payment loans for the replacement or substantial rehabilitation and revitalization of obsolete or deteriorated state public housing and to encourage the production of new affordable housing units on underutilized public housing sites. Revitalized projects should demonstrate that the proposed financing structure eliminates the need for future state modernization funding.

**Affordable Housing Trust Fund**

*FY 06: $20 million (Bond)  FY 07 Request: $30 million (Operating) & $20 million (Bond—subject to A&F)*

Available statewide, the Affordable Housing Trust Fund is a flexible funding source that can be used to produce and preserve rental and ownership units for households with incomes of up to 110% of the area median income, adjusted for household size. It can also be used to provide down payment assistance for homeownership. It is generally used with other state and federal housing funds. Units that receive AHTF money must remain affordable for at least 30 years.

The Affordable Housing Trust Fund has provided funding for 5,527 units of housing, 4,542 of which qualify as affordable. Twenty-four percent of the units serve families and individuals with extremely low incomes, those who make less than 30% of the area median. This flexible source of funding has been deemed a success by all involved with the program, and it has received strong support from the Romney Administration and the Legislature, though the Administration’s bond cap prevents the bond funds that the legislature approved in July from being expended as quickly as possible.

Originally, the program was to receive $20 million a year for 5 years from the operating budget. In its third year, it only received partial funding, and in its fourth year it was shifted to the capital budget. In the FY 05 budget (Section 412), it received $2 million of operating funds in addition to the capital funds, largely through the efforts of the Commonwealth Housing Task Force, but only capital funds were available in FY 06.

Demand for the program dramatically exceeds the resources that have been provided. The FY 06 $20 million in bonds were used to fund projects from prior
years, and the most recent funding round saw rental and homeownership requests that totaled $34.5 million. Approximately $7 million will be forward committed from FY 07 bonds, but other worthy projects will have to wait unless new funding is found. We recommend that the Affordable Housing Trust Fund receive $30 million in state operating funds, in addition to the already-authorized bond funds, to provide necessary assistance to projects in a timely manner.

Following the plenary meeting, the Co-Chairs and Convener (Paul Grogan) of CHTF sent a letter to the Senate President and Speaker of the House, with copies to the Chairs of the Joint Committee on Housing (Sen. Joyce and Rep. Honan) registering our support for this funding in the current budget session, and we have been in informal contact with legislative staff to underscore this commitment.

Streamlining the Administrative Process for Applying for Chapter 40R Approval

We have had initial discussions with DHCD about ways to make it easier for communities to apply for and receive approval of Chapter 40R districts. Angus Jennings has also introduced this issue in a white paper currently under development by the Massachusetts Association of Consulting Planners, of which he is a Board member. MassHousing’s Priority Development Fund provides planning money for communities that do not have sufficient staff capacity to carry out the design of a Chapter 40R district, and that funding has proven to be extremely valuable. To the extent that CHTF has sufficient resources to support this effort, CHTF staff will assist communities pro bono in applying for these technical assistance funds on a first come, first served basis.

Spreading the Word about Chapter 40R

Barry Bluestone, Eleanor White, Ted Carman and Angus Jennings have continued to make presentations throughout the State about Chapter 40R and 40S to cities and towns, professional organizations, practitioners in the field, and others. CHTF staff has prepared a comprehensive plan to implement outreach to planning officials, local elected officials, affordable housing advocates, realtors and others to assure widespread education about the benefits of Chapter 40R.

One very exciting part of this initiative is a partnership we have forged with the Greater Boston Association of Realtors, one of the constituent divisions of the Greater Boston Real Estate Board. Barry Bluestone and Eleanor White made the first of a series of presentations on December 7, 2005 in Framingham, and Barry and Ted Carman made the second on January 19, 2006 in Boston. GBAR has donated all registration fees paid by attendees to support the work of the Commonwealth Housing Task Force. We will also be scheduling presentations at the local level with local officials and advocates arranged by members of GBAR. GBAR represents over 7000 residential realtors in the Greater Boston area, and its membership can be powerful allies in the effort to generate
community participation in the Chapter 40R program. We are very grateful to GBAR for this interest and support.

We have also begun discussion with the Massachusetts Association of Realtors, the state-level component of the National Association of Realtors. NAR has identified Smart Growth as a major priority for this year, and MAR’s new President, David Wluka, is also enthusiastic about Smart Growth in general and Chapter 40R in particular. We expect to be working closely with MAR and its membership to advocate for local passage of Chapter 40R districts. Additionally, we have begun discussions relative to a partnership with the Massachusetts Municipal Association to hold regional forums with their member cities and towns on Chapters 40R and 40S. We are very grateful for the support of GBAR, MAR and MMA in helping to spread the word about these programs.

In the past quarter, we have continued our outreach efforts to the municipal planning community. Ted Carman was a featured speaker at an event regarding 40R hosted by the Massachusetts Association of Planning Directors in January. Thirty-five municipal planners attended from across the Commonwealth, and Ted’s presentation was well received. More recently, Angus Jennings was the lead author of a successful grant application to the American Planning Association to host two workshops and produce a technical assistance paper on the use of “form based” regulation within 40R Districts. He will complete this work in the coming months with the Chief Planner in Lowell, Stephanie Pollack from CURP, and with the support of the Assistant Attorney General.

In addition, all of the staff continued to make both formal and informal presentations on the Massachusetts housing situation and the Chapter 40R and 40S legislation throughout the State, and participated in numerous media interviews on these subjects. We have met with real estate/housing/planning organizations, developers, individual town planners, planning directors, community development directors, and local elected officials in communities throughout the State.

Barry Bluestone, Eleanor White and Ted Carman have also participated in numerous interviews and conversations with representatives of the media this quarter, and that effort will also continue. Angus Jennings and Ted Carman met at length with the Editorial Board for Banker & Tradesman, and authored an op-ed in the March 27th edition describing the current status of 40R and 40S.

We have been gratified at the increasing interest in Chapter 40R/S. However, we have also identified much misinformation about these programs. For example, many believe that to be eligible, a proposed 40R location must be near a transit stop; in fact, two other categories of eligibility exist—areas of concentrated development, including town centers, and “other highly suitable locations”. The latter are sites with infrastructure planned or in place that are currently underutilized and represent a priority development area for the community. Thus, many, many sites are eligible for 40R overlay zoning districts that are not immediately near transit. Another concern often cited is that municipalities would give up their local regulatory authority due to the “as-of-
right” nature of 40R development. On the contrary, our experience illustrates that a well written bylaw and detailed design standards allow for thoughtful site design consistent with an exciting vision, all produced prior to 40R adoption which results in a more efficient and streamlined permitting process. Finally, smaller communities have expressed concern that they cannot accommodate the scale of development under 40R. The Town of Norwood, which has filed a 40R application with DHCD for 15 units on 30,000 square feet through historic renovation, illustrates the opportunity for 40R on small sites.

DHCD has asked us to work with them to develop a set of Frequently Asked Questions to try to dispel some of the misinformation that may be standing in the way of some communities looking into Chapter 40R. Members of CHTF are encouraged to contact Eleanor White (ewhitte@housingpartnersinc.com) if you encounter any similar types of confusion so that FAQ’s can be developed to address these issues.

We also encourage you to regularly visit the Boston Foundation/CHTF website at www.tbf.org/chtf. We welcome all comments and suggestions for improvement. The website serves as the central repository for documents, status reports and resource material on the Task Force itself, Chapter 40R, Chapter 40S, press coverage, and related matters. CURP staff, led by Barry Bluestone and Joe Christo, is responsible along with Tim Gassert at the Boston Foundation for updating the CHTF website on a regular basis.

Follow up by the CHTF Legislative Committee

The Legislative Committee, headed by Co-Chair Larry DiCara and including members from the legal and development communities, local and state officials, will be convening to review the regulations promulgated for Chapters 40R and 40S to determine if any technical corrections are needed. This Committee played a critical role in the initial drafting of the two statutes and in reviewing the drafts of the regulations. Now that communities are beginning to gain experience in using the regulations, we know that the committee will continue to be extremely important in monitoring the implementation.

Potential New Initiatives

While the passage and implementation of Chapters 40R and 40S have been significant accomplishments and have stretched the resources of the Task Force, they are only the first initiatives of CHTF. Much work remains to be done on other fronts.

The Strategic Planning Committee, led by Robert Beal, will be revisiting the issue of Inclusionary Zoning in the coming months; the next meeting to discuss this issue is scheduled for April 5. And members of CHTF, at the March 1 meeting, also recommended exploration of ways to deal with the Expiring Use/Preservation issues as a way to extend affordability at much lower cost than construction of new units.
Further, participants at the plenary meeting suggested that a new committee be formed to explore possible diversity initiatives, both to increase participation in CHTF by people of color and other underrepresented groups, and to assure that programs supported by CHTF will have a positive effect on social justice and equity issues. As requested on March 1, we ask that any members wishing to participate on this new committee send an email to Eleanor White (ewhite@housingpartnersinc.com). We have postponed the initial meeting of this committee, pending indications of interest in response to this Quarterly Report by those who may not have been able to attend the plenary meeting, but would like to get this committee under way as soon as possible.

Members of the Task Force and others are also encouraged to forward ideas for other housing initiatives where the demonstrated effectiveness of the Task Force may make a difference. We have been approached by various groups interested in transportation, zoning and permitting issues, as well as the spectrum of affordability concerns, and will be reviewing the degree to which we can move into new areas.

**Expansion of the Task Force and the Search for Resources**

We have been gratified again this Quarter with requests from many new people to participate in the Task Force. As we speak about Chapter 40R, we also are receiving requests from more elected and appointed local officials to get involved in the CHTF, and they are a most welcome addition as well. As mentioned above, we are especially interested in increasing our representation of people of color on our email list, and in active participation in committees and plenary meetings.

The Boston Foundation, under the leadership of Paul Grogan and Mary Jo Meisner, continues to play the critical role of convener of the Commonwealth Housing Task Force. We are indebted to them and their staff for their wisdom and generosity.

Finally, a committee of the Task Force, under the leadership of Paul Grogan and Mary Jo Meisner of the Boston Foundation; Jerry Rappaport, Jr., co-chair of CHTF; and Robert Beal, chair of the Strategic Planning Committee, continues the effort to raise the resources necessary to support the ongoing work as outlined above. That committee met in March, 2006, and a major fundraising effort will be launched in the coming weeks. We are further indebted to the Boston Foundation for their generous grant voted by their Board at the end of March. We have also submitted a funding proposal to the Surdna Foundation to support the work of the Task Force; the proposal will be reviewed in May of 2006. Special thanks to those CHTF participants who have made financial contributions to allow this work to go forward.

Also thank you to all of the CHTF participants for your continued enthusiasm and participation. So that we may keep in touch with you, we again ask that you **please update our mailing list information if you have not yet done so, with your name, affiliation, address, phone, fax and email. Please send updates to ewhite@housingpartnersinc.com**.
We welcome comments and suggestions. You can reach Eleanor White at Housing Partners, Inc. (617-924-7240 or ewhite@housingpartnersinc.com); Barry Bluestone at the Northeastern Center for Urban and Regional Policy (617-373-8595 or b.bluestone@neu.edu); and Ted Carman at Concord Square Development (617-482-1997 or carman@concordsqdev.com). Please note that email messages about CHTF may often be coming from Maura Fogarty at The Boston Foundation (maura.fogarty@tbf.org) so please include her email address in your list of allowed senders and do not delete her messages!

Respectfully submitted: Eleanor White, Barry Bluestone, Ted Carman
April, 2006