

**Annual Report Pursuant to St. 2024, c. 150, § 15 (Affordable Homes Act)  
November 1, 2024**

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**To:** Governor Maura T. Healey  
Members of the Joint Committee on Housing

**From:** Edward M. Augustus, Secretary of the Executive Office of Housing and Livable Communities

**Cc:** Nikko Mendoza, Chief of Staff  
Eric Shupin, Chief of Policy  
Christopher Jee, Acting General Counsel  
Shelagh A. Ellman-Pearl, Chair, Housing Appeals Committee

**Date:** November 1, 2024

**Re:** **Report pursuant to G.L. C. 40B, § 22 as amended by St. 2024, c. 150, § 15**

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Chapter 150 of the Acts of 2024 (Affordable Homes Act), amends the comprehensive permit statute (G.L. c. 40B, §§ 20-23) to require:

The Secretary of the Executive office of Housing and Livable Communities (EOHLC) to annually report to the Governor and Joint Committee on Housing a summary of delays for appeals pending with the Housing Appeals Committee (Committee). The Secretary's first annual report is due by November 1, 2024.

Specifically, section 15 of the Affordable Homes Act, amends G.L. c. 40B, § 22, by inserting the following:

...the committee shall provide notice to the secretary of any such extension or other failure to perform action by the deadlines set forth in this section and the reason for such delay; provided further, that the secretary shall annually, not later than November 1, submit to the governor and the joint committee on housing a summary of such delays including, but not limited to: (i) any deadlines missed pursuant to this section for each applicable appeal; (ii) the reason for any such delay; (iii) the total number of days, from the date of the committee's receipt of the applicant's statement of the prior proceedings, in which the committee ultimately issued a written decision or, if such appeal is in progress at the time the report is submitted, the projected number of days beyond the deadlines listed herein as may be necessary for the committee to issue a decision; and (iv) the board that issued the denial or conditions and requirements being appealed by the applicant.

As the Affordable Homes Act became law on August 6, 2024, this report provides information pertaining to those cases for which extensions were granted or statutory deadlines were missed after that date.

## Reporting Requirements:

The applicable “extension[s] or other failure[s] to perform action by the deadlines [in G.L. c. 40B, § 22]” are the following:<sup>1</sup>

1. **Notice:** The Committee has 10 days from the date an appeal is filed to notify the zoning board of the appeal.
2. **Hearing:** The Committee has 20 days from the date an appeal is filed to commence the hearing.
3. **Decision:** The Committee has 30 days from the termination of the hearing to issue a final written decision, unless extended by mutual agreement between the Committee and the applicant.

In practice, the 10-day notice to the ZBA deadline is always met; the Committee ensures timely notice to the ZBA so that it may meet the 20-day hearing deadline by scheduling an initial conference of counsel within 20 days of the appeal. 760 CMR 56.06(7)(d)1. The hearing is always scheduled to commence with the initial conference the presiding officer holds with the parties’ counsel within the 20 days following the date of an appeal; the Committee postpones this conference only if requested by a party to do so for good cause.

The hearing terminates when all transcripts have been approved by the parties and all briefs and memoranda requested by the presiding officer have been filed. 760 CMR 56.06(7)(e)9. The 30-day decision deadline runs from this date. Virtually all Committee decisions after the termination of a hearing require more time to prepare and issue than the 30-day decision deadline allows because of the factual and legal complexity of the cases.

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<sup>1</sup> An additional provision in G.L. c. 40B, § 22 requires that a developer file an appeal with the Housing Appeals Committee no later than 20 days from the date of the municipal ZBA’s decision on a comprehensive permit application. This jurisdictional requirement falls on developers for compliance. It cannot be waived or extended. The Committee would not learn if a developer chose not to file an appeal within the 20 days. If a developer misses this deadline, Committee case law provides that a zoning board’s motion to dismiss would be granted.

**Cases Reported August 6, 2024 – November 1, 2024**

Case Name & Docket No.	Applicable Statutory Deadline(s)	Reason(s) for Delay/Extension	Days from Hearing Termination to Decision	Days from Appeal to Decision <sup>2</sup>
<i>SLV School Street, LLC v. Manchester-By-The-Sea ZBA</i> , HAC. No. 2022-14 <sup>3</sup>	Decision due: 6/12/24  Decision anticipated 12/1/24	Substantial case record; numerous legal issues; must follow statutory process for proposed decision <sup>4</sup>	202	808
<i>518 South Ave., LLC v. Weston ZBA</i> , HAC No. 2022-12 <sup>5</sup>	Decision due: 9/14/24  Decision anticipated: 1/15/25 or later <sup>6</sup>	Lengthy, 8-day evidentiary hearing; numerous legal issues; post-hearing motions; must follow statutory process for proposed decision; pending motion to reopen hearing	213 or more	883

<sup>2</sup> For appeals in progress at the time the annual report is submitted, the Committee provides the projected number of days beyond the deadlines as may be necessary for it to issue a decision. St. 2024, c. 150, § 15.

<sup>3</sup> Appeal filed on September 15, 2022. Hearing terminated on May 13, 2024.

<sup>4</sup> Pursuant to G.L. c. 30A, §11(7), the Committee is required to issue a proposed decision if one is requested by a party.

<sup>5</sup> Appeal filed on August 16, 2022. Hearing terminated on August 15, 2024. Motion to reopen hearing filed September 16, 2024. The ZBA filed a “safe harbor” interlocutory appeal for this project on October 25, 2019 (No. 2019-12). That appeal was denied and remanded to the ZBA on March 15, 2021, to resume the hearing on the comprehensive permit application.

<sup>6</sup> Timing of decision is dependent upon whether motion to reopen hearing is granted.