



March 27, 2024

Honorable Chairman Robert E. Craven, Sr.
House Judiciary Committee
Rhode Island State House
Providence, RI 02903

RE: H-7951 – An Act Relating to Towns and Cities – RI Comprehensive Planning and Land Use Act

Dear Chairman Craven and Committee Members:

Thank you for this opportunity for the RI Chapter of the American Planning Association (APA-RI) to comment on H-7951, a bill which amends the Comprehensive Planning Act to put significant restrictions on the ability of municipalities to enact moratoriums on residential development. This bill makes use of the following language to make it extremely difficult, if not impossible, for a municipality to use the moratorium procedure to put a temporary halt on applications and approvals for residential development:

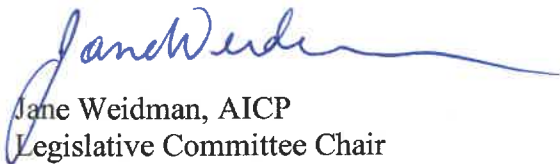
- The limitation on the number of building permits must be “reasonable”. This is a subjective term, which could lead to confusion or court challenges.
- The limitation must be “specifically recognized” in the comprehensive plan. This would require an unrealistic degree of predictability and should not be grounds to prevent a moratorium based on legitimate public purposes.
- It must be “related to a legitimate government interest taking into account the need for additional housing units in the community”. The need for additional housing has been identified as a statewide need, which, by definition, means each individual city and town. However, the ability to balance the “government interest” with that housing need puts the municipalities in a bind. If there is not enough school capacity but the community needs housing for its workforce, which situation should overrule the other?
- No such limitation shall apply “to applications submitted as a part of a comprehensive permit project or units to be developed under inclusionary zoning”. These conditions would overrule all other considerations, putting municipalities in unworkable and unreasonable circumstances. If there is a real public health or safety need to put a halt on building permits, it makes no difference whether the unit is for a market rate or a LMI unit. It also becomes a disincentive for communities to make use of inclusionary zoning.

- And finally, “in no event shall such limitation be in place longer than sixty days” even under circumstances of a “dire emergency”. If there is a need for a moratorium and all the other hurdles have been overcome, the sixty days would, in almost all circumstances, be wholly inadequate. If the issue of concern requires a new local ordinance or other action to address whatever emergency issue there is, then sixty days is not enough time to hire an expert, draft and advertise an ordinance, have it undergo the public review process and then be implemented. If the issue is something like school capacity, a municipality will need much more than two months to come up with a solution to educate its potential additional students.

APA-RI does not support the use of moratoriums for unreasonable or exclusive purposes, for example, to stop the issuance of building permits in order to wait out a strong housing market driving a building boom, or to use the timing to prevent a project from actually being built. If there is such evidence or other legitimate concerns that municipalities would use the moratorium procedure to prevent residential development, then our organization would support an amended bill. However, this would include modified and practical language, and at a minimum, allow a moratorium of up to six months.

APA-RI opposes this bill as written. Thank you for your consideration.

Sincerely,



Jane Weidman, AICP
Legislative Committee Chair

cc RI League of Cities and Towns