

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter** REGIONAL PLANNING**40B****Section 21** LOW OR MODERATE INCOME HOUSING; APPLICATIONS FOR APPROVAL OF PROPOSED CONSTRUCTION; HEARING; APPEAL

Section 21. Any public agency or limited dividend or nonprofit organization proposing to build low or moderate income housing may submit to the board of appeals, established under section twelve of chapter forty A, a single application to build such housing in lieu of separate applications to the applicable local boards. The board of appeals shall forthwith notify each such local board, as applicable, of the filing of such application by sending a copy thereof to such local boards for their recommendations and shall, within thirty days of the receipt of such application, hold a public hearing on the same. The board of appeals shall request the appearance at said hearing of such representatives of said local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue

permits or approvals as any local board or official who would otherwise act with respect to such application, including but not limited to the power to attach to said permit or approval conditions and requirements with respect to height, site plan, size or shape, or building materials as are consistent with the terms of this section. The board of appeals, in making its decision on said application, shall take into consideration the recommendations of the local boards and shall have the authority to use the testimony of consultants. The board of appeals shall adopt rules, not inconsistent with the purposes of this chapter, for the conduct of its business pursuant to this chapter and shall file a copy of said rules with the city or town clerk. The provisions of section eleven of chapter forty A shall apply to all such hearings. The board of appeals shall render a decision, based upon a majority vote of said board, within forty days after the termination of the public hearing and, if favorable to the applicant, shall forthwith issue a comprehensive permit or approval. If said hearing is not convened or a decision is not rendered within the time allowed, unless the time has been extended by mutual agreement between the board and the applicant, the application shall be deemed to have been allowed and the comprehensive permit or approval shall forthwith issue. Any person aggrieved by the issuance of a comprehensive permit or approval may appeal to the court as provided in section seventeen of chapter forty A.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter** REGIONAL PLANNING**40B****Section 22** APPEAL TO HOUSING APPEALS COMMITTEE;
PROCEDURE; JUDICIAL REVIEW

Section 22. Whenever an application filed under the provisions of section twenty-one is denied, or is granted with such conditions and requirements as to make the building or operation of such housing uneconomic, the applicant shall have the right to appeal to the housing appeals committee in the department of housing and community development for a review of the same. Such appeal shall be taken within twenty days after the date of the notice of the decision by the board of appeals by filing with said committee a statement of the prior proceedings and the reasons upon which the appeal is based. The committee shall forthwith notify the board of appeals of the filing of such petition for review and the latter shall, within ten days of the receipt of such notice, transmit a copy of its decision and the reasons therefor to the committee. Such appeal

shall be heard by the committee within twenty days after receipt of the applicant's statement. A stenographic record of the proceedings shall be kept and the committee shall render a written decision, based upon a majority vote, stating its findings of fact, its conclusions and the reasons therefor within thirty days after the termination of the hearing, unless such time shall have been extended by mutual agreement between the committee and the applicant. Such decision may be reviewed in the superior court in accordance with the provisions of chapter thirty A.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter** REGIONAL PLANNING**40B****Section 23** HEARING BY HOUSING APPEALS COMMITTEE; ISSUES;
POWERS OF DISPOSITION; ORDERS; ENFORCEMENT

Section 23. The hearing by the housing appeals committee in the department of housing and community development shall be limited to the issue of whether, in the case of the denial of an application, the decision of the board of appeals was reasonable and consistent with local needs and, in the case of an approval of an application with conditions and requirements imposed, whether such conditions and requirements make the construction or operation of such housing uneconomic and whether they are consistent with local needs. If the committee finds, in the case of a denial, that the decision of the board of appeals was unreasonable and not consistent with local needs, it shall vacate such decision and shall direct the board to issue a comprehensive permit or approval to the applicant. If the committee finds, in the case of an

approval with conditions and requirements imposed, that the decision of the board makes the building or operation of such housing uneconomic and is not consistent with local needs, it shall order such board to modify or remove any such condition or requirement so as to make the proposal no longer uneconomic and to issue any necessary permit or approval; provided, however, that the committee shall not issue any order that would permit the building or operation of such housing in accordance with standards less safe than the applicable building and site plan requirements of the federal Housing Administration or the Massachusetts Housing Finance Agency, whichever agency is financially assisting such housing. Decisions or conditions and requirements imposed by a board of appeals that are consistent with local needs shall not be vacated, modified or removed by the committee notwithstanding that such decisions or conditions and requirements have the effect of making the applicant's proposal uneconomic.

The housing appeals committee or the petitioner shall have the power to enforce the orders of the committee at law or in equity in the superior court. The board of appeals shall carry out the order of the hearing appeals committee within thirty days of its entry and, upon failure to do so, the order of said committee shall, for all purposes, be deemed to be the action of said board, unless the petitioner consents to a different decision or order by such board.