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Endangered Species

## Scarce Buyers Endangering State's Affordable Housing Stock

### Market-Rate Deals, Strict Rules Leaving Affordable Units Unsold, Vulnerable

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MassWildlife might tell you that Massachusetts' most endangered species is the shortnose sturgeon or the Northern Red-Bellied Cooter. But some property agents may point to a different candidate – a qualified buyer under current affordable housing laws, including Chapter 40B.

Thanks to a bevy of different rules and regulations governing how and to whom affordable properties can be sold, developers often hire specialized agents, called lottery agents, to oversee the process and ensure the sales comply with federal and state laws.

In the past, competition for affordable units was stiff. Now, many agents report they're having a tough time finding buyers.

Lenders are tightening their belts, the best-qualified applicants are being lured into discounted market-rate homes and tougher government regulation is affecting how specially designated affordable units can be sold. As a result, some affordable properties are listed for weeks without attracting a qualified applicant, even when they're offered as "first come, first served."

It's a big problem – though specially designated units at newly built developments must wait for qualified affordable applicants to find them, once-affordable properties being resold may convert to market-rate if they languish too long without a buyer, potentially impacting affordable housing levels in towns statewide.

Chapter 40B allows developers to bypass certain local approvals in communities where less than 10 percent of the housing stock is deemed affordable, in exchange for allocating at least 20 percent of a project's units to lower-income households.

#### First Come, First Served

"When I took over [this position] in 2005, all of the [affordable] units that I had come up for resale, I found buyers for," said Jennifer Shaw, a property manager at the Metropolitan Boston Housing Partnership. "Now, it's a struggle."

"I'm having more trouble getting applications," confirmed Kristen Costa of L.A. Assoc. in Wilmington. A recent single-family home she listed received enough applications to conduct a lottery, but not as many as Costa said she expected.

With so few qualified buyers stepping forward, many agents have taken to listing properties as first come, first served, meaning the first applicant who makes it through the screening process and obtains financing will get the home.

Last week, a total of 37 affordable units were listed as available for purchase on MassAccess, a listings database maintained by Citizens' Housing and Planning Association (CHAPA). Of those, only nine were listed as lotteries, with the other 28 units



Sean Caron

being made available as first come, first served – more than 75 percent.

Agents say there are a number of factors discouraging applicants. For first-time homebuyers, “the programs [available] for them are excellent, if they can qualify,” Costa said. “For some of the programs, it’s tight.”

Changes to the requirements for existing affordable programs have also had an effect. Many affordable units are condominiums. In 2008, certain changes were made to Fannie Mae’s purchasing requirement for condo loans, raising the percentage of units which must be pre-sold and owner-occupied in order for banks to sell such loans to Fannie. That has made banks more reluctant to make such loans, as they will have to keep them on their own books.

Also in 2008, rules for developments operating under Chapter 40B were tightened so buyers couldn’t get adjustable rate mortgages, according to Sean Caron, CHAPA’s director of public policy. That made offering affordable mortgages a less attractive proposition for some larger banks, Caron said. Caron said local banks and credit unions, which keep more loans internally, have been more flexible.

### **Competition, Catch-22s**

But such flexibility comes at a cost. Some agents report that banks willing to lend are asking for higher down payments, which can lead to “a Catch-22,” said Brian Engler, of SEB LLC in Brighton, an affordable housing planning and development consultancy. “While technically people could have enough assets to put 20 percent down and still qualify for the program, it’s a very, very small window of eligibility that you’re dealing with, because applicants can’t have more than \$75,000 in assets,” Engler explained.

For applicants with poor credit or without a long history of steady employment, tougher lending requirements are often more than enough to prevent them from getting financing. But many of those who can meet the newly stringent requirements are being pulled in the other direction, as falling prices and a proliferation of short sales and foreclosures create opportunities for them to obtain market-rate units.

Clark Zeigler, executive director of the Massachusetts Housing Partnership, says MHP’s Soft Second program, which helps qualified buyers obtain fixed-rate mortgages, has seen a substantial increase in applications.

Soft-second borrowers are almost exclusively first-time homebuyers, and are obligated to live in the properties they buy. Between fiscal year 2007 and fiscal year 2009, MHP’s loan volume increased more than 64 percent, with about 20 percent of loans made being used to purchase foreclosed properties or short sales.

“Buyers are smart,” says Zeigler. “If they can find a property to their liking which is unencumbered by restrictions, that’s where they will tend to go.”

The dearth of applicants is making all affordable units tough to fill, but the problem is especially worrisome for properties which are being resold. Shaw says that for many properties, there is a short window of 90 days to find an eligible buyer before the owner can sell for market value.

Under most affordable housing laws, there are strict limits on how much profit the owner can make if a once-affordable property is resold at market rate, with the remainder going to the state or city. But once the deed restriction is lifted, it’s gone forever, Shaw said.

“There are a lot of units that we’re losing, because we can’t find buyers,” said Maureen O’Hagan of MCO Housing Services in Harvard. “I have a beautiful unit now for \$98,000 and I can’t sell it. I have a lot of interest, but I can’t get someone who can get a mortgage.”