

Additional Considerations
supported by the
**Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land
Use Restrictions**
See Pages 24 – 26 of the December 2021 Report

V. Additional Considerations

Over the course of the commission’s seven meetings, discussions were wide-ranging and included many topics that the commission was either not able to fully explore or felt were beyond the scope of the commission’s charge. However, the commission feels that these additional topics merit inclusion in this report as additional considerations for the Legislature to consider as it advances the overall goal of increasing opportunities for quality, affordable housing in Maine.

- **Fees and Related Costs:** The commission had an extended discussion regarding a potential recommendation, submitted by Commissioner Jackson, to prevent zoning that charges unreasonable or different fees for multi-family affordable housing or land-lease communities, or impose onerous consulting fees on property owners. In support of this potential recommendation, commissioners noted that any *unreasonable* fee is discriminatory on its face, and that fees have been used as a tool to limit affordable housing projects. One example given was a situation in which tree fees¹ were being assessed on residential properties but not commercial properties. Similarly, some communities require that site improvement costs be bonded, held in escrow, or secured with a line of credit until site work is completed. These are the types of costs that could be waived for developments receiving MaineHousing or other public funding, or in the case of below-market affordable development. However, fees may be legitimately used for purposes related to, for example, the creation of affordable housing, and eliminating them would put costs back on property taxes. For example, a code enforcement program may be financed in part by fees and in part by property taxes; removing the fees would make the program entirely reliant on funds raised through property taxes. Ultimately, the commission felt that it did not receive much information or any substantive presentations on this particular topic, leaving the commission unable to make a full recommendation.

- **Short-term rentals:** Short term rentals, such as Airbnb’s, are another area of concern that was raised but that the commission believes requires a more in-depth study. Commissioners noted that the rapid growth of short-term rentals in Maine has taken existing housing stock out of the year-round rental pool, putting pressure on rental rates throughout the State. Although long-term impacts may not yet be known, there is evidence that short-term rentals are impacting the housing market. Of particular concern is the rise of non-owner-occupied short-term rentals in strong housing markets. While owners who rent out their own units at times can supplement their household income, non-owner-occupied short-term rentals do not

¹ The example given is part of a tree planting requirement in Portland, in which if a developer cannot plant a certain number of new trees on a site due to site constraints, the developer can pay a fee-in-lieu to the city for street trees.

provide the same benefits and can essentially remove a housing unit from the market. While the commission has not made a formal recommendation, this may be a topic that deserves further study to assess the benefits and drawbacks of regulating short-term rentals.

Commission members are particularly interested in ensuring that new housing units produced using the recommendations from this report are used primarily as permanent, year-round housing for Maine residents.

- **Farmworker housing:** One specific type of housing shortage that the commission did not have time to engage in more fully is workforce housing, and specifically housing for farmworkers. A related issue is the loss of prime agricultural land to development – both residential and commercial. Development and implementation of policies that address Maine’s housing crisis should factor in the impacts on the State’s farmland. Recommendations related to this topic that the Legislature may want to consider are specifically noted on the final page of the commission’s suggested recommendations attached in Appendix [P].
- **Reconstitution of the State Planning Office:** In its discussions regarding the provision of technical assistance to municipalities, the commission discussed the former State Planning Office, which was eliminated in 2012. Members discussed the advantages and disadvantages of having a centralized office responsible for providing technical and financial assistance, whether that be a full separate agency or a smaller division within an existing state agency. Ultimately, in Recommendation # 4 the commission recommends that technical assistance must be provided to municipalities to encourage changes in zoning and land use regulation, but does not come to consensus or make a formal recommendation on where that technical assistance comes from or the umbrella agency under which it should sit.
- **Energy efficient building materials:** Although not directly related to zoning and land use regulation, one suggested topic that arose out of the discussion of the development of new affordable housing, is the quality of the building materials and the use of energy efficient and environmentally friendly building materials, especially when building new housing or refurbishing older buildings to be used as affordable housing.