

L.D. 2003, AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE
COMMISSION TO INCREASE HOUSING OPPORTUNITIES IN MAINE BY STUDYING
ZONING AND LAND USE RESTRICTIONS
BEFORE THE JOINT COMMITTEE ON LABOR AND HOUSING
TESTMONY OF BARBARA R. ALEXANDER

MARCH 7, 2022

Senate Chair Daughtry and House Chair Sylvester: I am pleased to support L.D. 2003 and urge the Committee to report this bill favorably to the Maine Legislature.

I am a resident of Winthrop and a member of the Winthrop Town Council. Of course, I do not speak for the Council or the Town. I am a graduate of the University of Maine School of Law and I have held executive positions in Maine Government, notably as Superintendent of the Maine Bureau of Consumer Credit (1979-1983) and Director of the Consumer Assistance Division of the Maine Public Utilities Commission (1986-1996). Since 1996 I have represented public advocates and consumers in public utility proceedings as an expert witness in over 30 states.

My testimony is a reflection of my observations as a member of the public and my support for the need for affordable housing in Maine. Our housing stock is older. So is our population of which I am a prime example. We need to think “outside the box” as we are going to create a welcoming environment for younger families and those with modest incomes. Simply put, we need more affordable housing and our municipal zoning laws are one part of the puzzle that needs some serious reform.

Similar to the crisis that led to the Mandatory Shoreland Zoning Laws and various other state policies that have been adopted to provide some controls on municipal zoning, our housing

crisis demands a fresh look. It is entirely reasonable for state policy to enact some controls on municipal zoning rights to reflect our statewide needs. The “common good” often requires that some of us or all of us give up some level of individual control to achieve a desired objective. And, the “tragedy of the commons” is an oft told tale of allowing a precious resource to remain unregulated such that the “good” that was the basis for its use is destroyed.

In this proposed legislation, homeowners will have the right to build an Accessory Dwelling Unit on their property. And zoning density policies must reflect the need for multi-unit housing developments that families want and will purchase if available. While there may be aspects of the proposed statutory language that can be modified to accommodate specific issues and ensure that municipalities continue to supervise developments based on appropriate environmental criteria or verifiable criteria in terms of the capacity of school facilities, it is time to eliminate density requirements and growth ordinances that have historically been used to keep out lower income families and are now having the impact of eliminating even middle income families from entering the housing market either as homeowners or renters. Every town has an obligation to help solve this housing crisis. And, if we provide incentives for growth in areas that desperately want that growth in housing and associated taxes paid by home owners and property owners, we can experience growth without the adverse consequences that might exist where population density is already high and school facilities are not sufficient to meet the needs.

There is one area of the bill that is likely to require substantial reform. The proposed state-level housing appeals board is not accompanied by the due process that such a board requires in terms of the need for an evidentiary hearing, opportunity for cross examination, and the option for judicial review. It is not realistic for such a board to be given the power to override a municipal permit granted by the Planning Board without a more formal adjudicatory process. In effect, this

proposal creates a “super” state board of zoning appeals and I suggest that further consideration of this aspect of the bill requires additional work.

Thank you for this opportunity.