

Getting to the Truth

about the Jones-Stanley Bill (H4491)

A series of misleading claims have been made by Legislative proponents of the surplus land legislation known as Jones-Stanley (H4491). A careful analysis of the actual text of the bill is necessary to separate the reality from the rhetoric. The guide below should help in following the debate.

Statement by Beacon Hill Proponents of H4491

“After months of deliberation, in late 2005, the Massachusetts House passed Rep. Stanley’s surplus land bill, which will regulate the designation and sale of surplus state land. The bill, passed by a vote of 148 to 0, gives an unprecedented amount of power to local representatives and municipalities in the control of these state lands.

Surplus land is property owned by the Commonwealth that is deemed to no longer be needed by the state. In 2004, in the midst of an economic downturn, the Governor pushed through a provision in the budget known as Outside Section 548 to fast-track the declaration and auction of state land to raise money for the state’s general fund. Since that time, local communities and state representatives from these communities have continually protested the loss of control and careful deliberation that had previously gone into the process. Rep. Stanley’s bill puts much of the power back in the hands of local communities and their representatives at the state level.”¹

“[This bill] remedies past problems by providing clarity, empowering local communities and promoting smart growth.”²

¹ Rep. Thomas Stanley, website

² Rep. Thomas Stanley, letter in Lexington league of Women Voters newsletter, September 2005

Misleading Statements

“AFTER MONTHS OF DELIBERATION” The House carefully avoided having a public hearing on Jones-Stanley. The proponents tried several times to rush the bill through. **The “months of deliberation” occurred only because citizen groups fought the bill and succeeded in getting a vote postponed.** Finally, Democratic discussion was prevented by releasing the text of this long and complex bill (H4491) the day before the vote. This prevented citizens from alerting their legislators to the problems with the bill. It also insured that legislators would not have time to read the bill. Citizen groups have called for public hearings to be held

in different parts of the state to allow affected citizens to testify, but the House has rejected this plea.

“ UNANIMOUSLY APPROVED BY THE HOUSE”

Unanimous votes often occur when leaders of both parties enforce party discipline. Any legislator who dissents in such cases risks his/her relationship with the leadership. Often the decision to pass a bill is made in secret party caucuses, and a unanimous vote (often a voice vote) is asked for on the floor to avoid the appearance of controversy. **Support for Jones-Stanley is not unanimous within the Legislature, and a number of local elected officials have publicly stated their opposition to the bill.**

“UNPRECEDENTED AMOUNT OF POWER TO LOCAL REPRESENTATIVES AND MUNICIPALITIES IN THE CONTROL OF THESE STATE LANDS.”

This statement appears to be simply taking the most cogent criticism of the bill and stating the exact opposite. This statement is directly contrary to the provisions of the bill.

- **Currently, land cannot be transferred without specific legislation which, by tradition, must be introduced by local legislators. This makes legislators accountable for the results,** requiring them to listen to local leaders and to any local reuse committees. This is real power. Jones-Stanley would strip this power from communities and put decisions in the hands of bureaucrats and appointees on Beacon Hill. There is no role for local reuse committees under Jones-Stanley. This is not an accident - the disempowerment of local citizens is a publicly stated goal of the Beacon Hill leadership promoting the bill.
- Instead of providing community control through locally sponsored legislation and re-use committees, Jones-Stanley merely allows community members to be notified about an upcoming decision they will be powerless to effect. **Jones-Stanley also allows community members to testify in hearings run by the proponents of land disposal but they are in effect stripped of their ability to be decision-makers through reuse committees traditionally used under Chapter 7.** Early notification and the ability to testify at hearings before unaccountable boards should not be confused with empowerment.
- **The legislature’s “oversight” under Jones-Stanley is uninformed, unaccountable, and nonspecific.** The legislature would merely approve (or modify) a DCAM recommendation to dispose of a property – without a specific plan, or local sponsorship for any particular proposal. Without a local sponsor, no legislator can be held accountable for the outcome. Accountability is a critical safeguard against the well-

known ability of developers to influence government land use decisions through campaign donations and lobbying. In addition, the legislature's decision to dispose of land precedes the smart growth inputs (from the Regional Planning Authority and SLCC). Therefore the legislature cannot make an informed decision through the process established by Jones-Stanley.

“PROMOTING SMART GROWTH”–MISLEADING IMPLICATIONS FOR AFFORDABLE HOUSING AND THE ENVIRONMENT. Jones-Stanley violates the fundamental principles of smart growth. It does not allow careful consideration of competing alternatives for land use. It rides roughshod over careful local planning. It puts key decisions in the hands of fiscal agencies whose primary focus is generating revenues and not protecting the environment, providing housing, or planning land use. Once money is put on the table, smart growth planning is essentially abandoned as the property is turned over to the buyer.

- If an agency proposes a continuing state use for the property, the decision to approve their request is made by a committee of three. In this committee, **any agency opposing disposal would be readily outnumbered by DCAM and the Office of Administration and Finance** (DCAM's parent agency).
- The allotment of a portion of **cash proceeds to the Smart Growth Housing Trust Fund is a small fraction of the true value of the property** if used directly to meet affordable housing needs. Under Jones-Stanley, local communities giving up public land that could be used directly for affordable housing would instead be allowed to compete for dollars in the Smart Growth Housing Trust Fund (SGHTF). But there would be no guarantee that the local community will actually receive any of these funds. In addition, it should be noted that as little as 20% of the housing funded by the SGHTF is actually required to be affordable (with affordability defined at 80% of the area-wide median income). Further, affordable housing built under the SGHTF may revert to market rate after 30 years.
- Also, there is no guarantee that this results in an increase in housing funding. Fiscal committees are quick to cut appropriations for programs that demonstrate “self-funding” abilities. Unless there are guarantees to increase overall spending, earmarking of monies may well be just an excuse for cutting appropriations. If this happens the community will be sacrificing its public land merely to free up money for other legislative priorities, such as the corporate subsidies in the pending “economic stimulus” bill.

- **The promised smart growth "oversight" in Jones-Stanley is provided by a “Surplus Land Coordinating Committee” [SLCC] and a Regional Planning Association review. This oversight, however, takes place AFTER legislative approval to dispose of the property.** Thus, legislators will not have the benefit of “smart growth” input to inform any legislative decision about disposing the property or restricting its use to achieve environmental or smart growth goals.
- **The review by the Regional Planning Authority has no connection to decision-making.** It doesn't have any binding authority or any guaranteed impact on actual decisions. And it excludes local planners and advocates from decision-making in regards to the proposed plan. Furthermore, the RPA's are run by gubernatorial appointees. One of the largest RPA's is run by someone with close business ties to real estate developers, which raises questions regarding who will look out for the interests of communities when the RPA is producing the review.
- **The SLCC has no influence over MassDevelopment uses of the property.** Nor do they provide “oversight” if the municipality decides to buy the property.
- **In the end, the SLCC is required to select a "highest and best" use proposal, i.e. one producing the highest sale price.** This biases toward intense commercial/real estate development and away from public interest uses. This choice is further limited by having to pick from among three “highest and best use” options pre-selected by DCAM, a purely fiscal agency.