September 10, 2026

Rep. Aaron M. Michlewitz, Chair, House Committee on Ways and Means
Rep. Carole A. Fiola, House Chair, Joint Committee on Economic Development and Emerging Technologies
Rep. Michael J. Soter, House Ranking Minority, Joint Committee on Economic Development and Emerging Technologies

Sen. Barry R. Finegold, Senate Chair, Joint Committee on Economic Development and Emerging Technologies
Sen. Michael J. Rodrigues, Chair, Senate Committee on Ways and Means
Sen. Peter J. Durant, Senate Ranking Minority, Joint Committee on Economic Development and Emerging Technologies

RE: S.3228/H.5576 (*An Act Relative to Economic Development in the Commonwealth*) Tenant Opportunity to Purchase Act (TOPA) -- OPPOSE

Dear Conference Committee Members,

On behalf of the undersigned organizations, we wish to express our united opposition to Tenant Opportunity to Purchase Act (TOPA) provisions in the above-named bills. TOPA gives cities and towns in the Commonwealth the right to restrict the sale of rental housing by requiring owners to offer their rental properties to qualified tenant organizations before a market sale.

TOPA would cause serious delays and impediments to the normal conveyancing process in the Commonwealth. These delays could add up to months of utter gridlock in many real estate

transactions when this entire process does nothing to produce housing. Regardless of whether TOPA presents itself as a statewide local options (as is provided in H.5576) or a "pilot program" (as is provided in S.3228), TOPA legislation will worsen the housing crisis by eliminating the ability to finance, develop and operate rental housing, and will reduce assessed values - causing serious concerns with the devaluation of municipal levies.

SUMMARY

TOPA is a multi-stage process with tenants before a sale can proceed once a property owner decides to sell in an adopting municipality. The owner must first issue a formal notice of intent to sell and pause while tenants organize. If tenants form an association, the seller must then wait through a defined response period to determine whether tenants wish to pursue a purchase. If a third-party offer is later received, the seller must again halt the transaction, provide full contract terms to tenants, and allow another response period for tenants or their designee to match the offer. Only after each required notice, waiting period, and tenant decision point is exhausted—often involving three or more mandatory pauses for a single transaction—may the seller proceed to close with a buyer.

REDUCES AVAILABLE RENTAL STOCK

If enacted, TOPA proposals like those described in the above-named bills will decrease housing supply, especially in communities already facing a shortage of multi-family housing. Owners will be disincentivized from leasing out a portion of their properties if there is a chance they would sell the home at any point in the future. TOPA rights take effect when the owner has an "intent" to sell their property. Once an owner elects to lease the property, TOPA could apply. As a result, many small and large property owners may elect not to lease housing units to protect their investment. It's important to note that an owner who rents a room to help pay their mortgage or an owner who decides to lease out their home while on sabbatical would be subject to this law.

REDUCES MULTI-FAMILY HOUSING PRODUCTION

TOPA has been shown to reduce new housing production. In Washington D.C., where similar policies apply, developers have abandoned second phases of multi-year multi-building housing projects because of the transactional issues caused by TOPA. As it currently stands, the development process in Massachusetts can take several years to bring a project through the design, zoning and construction process. An exit strategy from the asset allowing a developer to sell the building is a critical component of any prospective project. If adopted, TOPA will strangle the transactional process, causing delay, uncertainty, and general chaos in the marketplace. Consequently, fewer developers will take on the risk of producing needed multi-family housing, thereby exacerbating the state's housing shortage and conflicting with the General Court's goals in passing the Affordable Homes Act of 2024 and subsequent legislation.

REDUCES QUALITY/QUANTITY OF AFFORDABLE HOUSING INVESTMENT

TOPA restricts the ability of state and local agencies to evaluate best investments for public resources allocated to affordable housing. Investment in affordable housing requires expertise, public input and planning from both the public and private sectors. A TOPA requirement will undermine this process and make it more difficult to achieve long-term results – and more difficult for state and local agencies to best allocate taxpayer dollars. There is serious concern that TOPA will be adopted by municipalities who do not understand the unintended consequences of the policy.

DELAYS REAL ESTATE SALES

Rather than allowing the owner to sell property on the open market on a schedule determined by the

parties, TOPA requires the owner to provide written notice to both the municipality and all renters and wait for specified time periods to pass. TOPA provides tenant organizations with timeframes for forming an association if they have not already done so, submitting a purchase offer, and obtaining financing. Additionally, TOPA requires a participating municipality to maintain and share lists of eligible affordable housing developers and technical assistance providers.

Delays resulting from TOPA will significantly chill the resale market for rental properties and deter owners and developers from creating more affordable housing. The potential effect on the sale of real property will become chaotic and complicated, with sellers and buyers being subject to these ongoing potential delays and pitfalls.

It should also be noted that, as has been seen in Washington D.C., the tenant association may agree to all terms and then still fail to obtain financing or otherwise decide not to close, causing an even greater delay. Each requirement will only complicate and delay the sale and transfer of real estate.

COMPLICATES LOANS AND CLOUDS TITLE

Loans and title insurance are critical components of real estate transfers. Title insurance is one of the basic steps home buyers take before closing. It protects the buyer and the lender from the possibility that the seller or previous sellers do not have free and clear ownership of the house and property and, therefore, cannot rightfully transfer full ownership. Lenders and title companies would assume tremendous risk insuring or lending money on transactions that may or may not be compliant with these legal requirements, which may result in the buyers in such transactions being unable to secure financing or title insurance. The identities of the tenants and any subsequent purchasers of their rights do not appear in the land records or any other independent source and there is no way to conclusively verify that all interested parties have waived their rights. As a result, buyers in such transactions may be unable to secure financing or title insurance.

MAKES FINANCING MORE EXPENSIVE AND COMPLICATED FOR BUYERS

The average third-party consumer wishing to purchase a unit, especially first-time homebuyers, will be unable to lock in an interest rate at the time of application and will need to update underwriting documents like credit reports, bank statements, income statements and appraisals. Ultimately, this means that a consumer may end up with a higher interest rate and more expensive closing costs. Most importantly, the loan approval would have to be re-underwritten and approved for those additional days. TOPA hurts both property owners and prospective buyers.

FURTHER HARMS DISTRESSED PROPERTY OWNERS

Similar delays in short-sales and deed in lieu of foreclose situations will have a devastating effect on borrowers. Borrowers often attempt to effectuate such transactions to avoid further financial consequences when they cannot pay their mortgage. The longer these transactions are delayed, the greater the loss to impacted homeowners. An owner seeking to engage a lender in such a sale does so based on significant economic hardship. In many cases, the owner has defaulted on their mortgage and is seeking to avoid the serious consequences of a foreclosure by quickly selling the property to a third party or to the bank. TOPA would require such an owner to delay a sale for months. No lender would agree to such a delay in the process and will instead proceed with the foreclosure process thereby preventing these owners from avoiding foreclosure. TOPA policies dissuade buyers for entering purchase and sale agreements with a third party.

DELAYS RETURN OF FORECLOSED PROPERTY TO USEFUL OPERATION

Similarly, TOPA creates substantial uncertainty around foreclosures by eliminating lender recourse. TOPA delays foreclosures, creating a paperwork trap by requiring foreclosing lenders to provide copies of a Notice of Sale and all offers received, and to afford tenants the right to purchase the property on the same terms as the foreclosure offer.

A bank that successfully forecloses on a property under TOPA could still have that property taken away from it by the former tenants. This could happen for minor paperwork errors, and it could happen to a new owner years later under the current statute of limitations. By all but eliminating lender recourse, lenders can do nothing but offer extremely high interest rates to offset risk or to leave the market. This will make it extremely expensive if not impossible to finance new construction or to refinance a commercial mortgage on rental housing.

IMPOSES HARSH PENALTIES FOR OWNERS

TOPA allows a participating municipality to impose additional penalties, municipal enforcement authority and additional mechanisms for enforcement. A violation of this provision often constitutes a violation of G.L. c. 93A and would entitle each tenant to seek damages based on the purchase price, as well as other damages and an injunction to stop any such transfer. Additionally, it requires the Attorney General to promulgate enforcement regulations and share sample transaction documents and allows the Attorney General to seek relief on behalf of tenants and the Commonwealth for TOPA violations. These penalties are likely to dissuade qualified purchasers from incurring the substantial risk associated with a multifamily property purchase subject to TOPA requirements. Further punishing owners will not solve the housing crisis.

IMPOSES COMPLEXITY INTO THE SALES PROCESS

One of the unintended consequences of the TOPA laws in jurisdictions like the District of Columbia is the corruption of the sales process, leading to more costs and delays for sellers and buyers. Other states and the District of Columbia that have adopted such laws have observed that the "rights" are often "sold" to third parties rather than ensure that tenants own their properties. These third parties often organize the tenants for the purpose of obtaining properties for below market value and without any intent to preserve affordable housing. Tenants are also often advised to exercise these rights merely to delay and chill sales to negotiate payments to waive such rights. It is critical to understand that tenants rarely acquire buildings under these TOPA policies.

REDUCES PROPERTY TAX BASE

Real estate taxes represent a primary source of revenue for the Commonwealth's communities. As seen in other markets, when a municipality enacts TOPA, the long delay and high cost of borrowing reduce the asset values, assessments, and municipal revenue. Under the Massachusetts state aid distribution formula, this will result in all municipalities, even those that do not enact TOPA, suffering in the form of reduced levies and/or state aid. Given the current fiscal concerns shared by municipalities in every corner of the state, the Commonwealth cannot afford to advance policies that would harm the local and state economies.

TOPA in any form would create substantial barriers to the sale of multi-family housing and would worsen the Commonwealth's housing crisis. For the forgoing reasons, we respectfully oppose TOPA policies and request that you omit them from the above-named bills before the General Court. Thank you for the opportunity to engage on this important issue.

Best Regards,

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