

Committee Report

REGULAR CALENDAR

March 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Judiciary to which
was referred HB 288-FN,**

**AN ACT eliminating the housing appeals board. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Rebecca McBeath

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Judiciary
Bill Number:	HB 288-FN
Title:	eliminating the housing appeals board.
Date:	March 10, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The majority of the Judiciary Committee agrees that the legislature should not eliminate the newly established Housing Appeals Board with its first meeting set for April 2021. Similar to the long-standing Bureau of Tax and Land Appeals, the Housing Appeals Board will allow for more efficient review of housing related appeals, cutting down on expenses for appellants and municipalities. There was broad support for the Housing Appeals Board at the hearing, including the Business and Industry Association and the NH Association of Realtors, where testifiers noted that it is expected to offer efficiency while preserving local control.

Vote 15-6.

Rep. Rebecca McBeath
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Judiciary

HB 288-FN, eliminating the housing appeals board. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Rebecca McBeath for the **Majority** of Judiciary. The majority of the Judiciary Committee agrees that the legislature should not eliminate the newly established Housing Appeals Board with its first meeting set for April 2021. Similar to the long-standing Bureau of Tax and Land Appeals, the Housing Appeals Board will allow for more efficient review of housing related appeals, cutting down on expenses for appellants and municipalities. There was broad support for the Housing Appeals Board at the hearing, including the Business and Industry Association and the NH Association of Realtors, where testifiers noted that it is expected to offer efficiency while preserving local control. **Vote 15-6.**

REGULAR CALENDAR

March 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Judiciary to which
was referred HB 288-FN,**

**AN ACT eliminating the housing appeals board. Having
considered the same, and being unable to agree with
the Majority, report with the recommendation that the
bill OUGHT TO PASS.**

Rep. Michael Sylvia

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Judiciary
Bill Number:	HB 288-FN
Title:	eliminating the housing appeals board.
Date:	March 10, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill would repeal the Housing Appeals Board. The minority believe the board to be unnecessary, and a potential for the concentration of authority susceptible to influence from large corporate developers.

Rep. Michael Sylvia
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Judiciary

HB 288-FN, eliminating the housing appeals board. **OUGHT TO PASS.**

Rep. Michael Sylvia for the **Minority** of Judiciary. This bill would repeal the Housing Appeals Board. The minority believe the board to be unnecessary, and a potential for the concentration of authority susceptible to influence from large corporate developers.

Original: House Clerk
Cc: Committee Bill File

Voting Sheets



2021 SESSION

Judiciary

Bill #: HB288 Motion: ITL AM #: _____ Exec Session Date: 3-10-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	15		
McLean, Mark Vice Chairman		1	
Sylvia, Michael J.	1		
Wuelper, Kurt F. Clerk	2		
Alexander, Joe H.		2	
Rice, Kimberly A.		3	
Silber, Norman J. Lancelles, R	3		
Greene, Bob J.		4	
Kelley, Diane E.		5	
Tausch, Lindsay		6	
Trottier, Douglas R.	4		
Smith, Marjorie K.	5		
Berch, Paul S.	5		
Horrigan, Timothy O.	6		
DiLorenzo, Charlotte I.	8		
Chase, Wendy	9		
Kenney, Cam E.	10		
Langley, Diane M.	11		
McBeath, Rebecca Susan	12		
Paige, Mark	13		
Simpson, Alexis	14		

Public Hearing

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB288-FN

BILL TITLE: eliminating the housing appeals board.

DATE:3/5/2021

LOB ROOM: /Remote **Time Public Hearing Called to Order:** 12:00 PM
Time Adjourned: 12:40 PM

Committee Members: Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Rice, Silber, Greene, D. Kelley, Tausch, Trottier, M. Smith, Berch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson

Bill Sponsors: Rep Roy

Blue Sheet Support 6 Oppose 48
TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Roy Rock 32`Introduced the Bill** Bill repeals the Housing appeals board which passed in the budget last year. Eliminating the board would save the taxpayers half a million dollars per year. The board was pushed by developers.

Sen Bob Giuda Supports Right now we have a vacancy rate of 1 percent because we have a big shortage of inventory. This has been caused by the long lead time to get developments approved. If the local board denies an application, the Developer must go to court for resolution. Many projects are tied up in court. This board in no way allows people to jump back and forth between paths. The board has 180 days to decide. It can not change any laws. It simply reviews if the local board has followed the existing law.

***Elliott berry** NHLA Oppose Opponents presume the board will be extremely friendly to developers. Three members are appointed by the Supreme Court and would apply the same laws as the Superior court. The only reason housing will increase is because of the shorter time to get decisions. All of these members have to be experienced in local land use, which many judges are not. The board has only been running for about a month. We should give it a chance to be successful.

David Juvet BIA Opposed We think the board will save the state money and make resolutions faster. Employers need more housing stock for their employees. Q McBeath: Who will benefit if the board is repealed? A I don't think anyone benefits. The disputes will remain and will have to be adjudicated in court which is expensive for all parties and takes a long time.

***Gregory Michael** Housing Appeals board Oppose WE just started in mid-January and are still waiting for our last member. Our purpose is to settle these disputes quickly and responsibly. The bottom line is we think it important to keep projects moving based upon the local regulations and ordinances. We have no authority to override or change any law. See Written. Q DiLorenzo: Does the board take away local control? A No. WE are a different place to go with a dispute. People choose whether to go before us or Superior court. WE don't take additional evidence unless absolutely necessary. We operate totally under existing laws. Q McLean: Who chooses original venue? A The petitioner chooses, just as they do now. Either party could make a motion to move the case, but that requires the consent of both parties. Q Alexander: Does Board ruling have the same weight as a court order? A Our orders are equivalent to Superior court orders.

***Ben Frost** NH Housing Finance Authority The board was modeled after the NH board of Land and Tax appeals. Its members are appointed by the Supreme Court. The board is designed to be fair to everyone, individuals, developers, and municipalities. See written.

Chris Norwood NH Assoc of Realtors Oppose Statistically rents are up 22 percent in the last five years and the cost of single-family homes is up 37 percent. We believe the board is fair for all property owners. Abutters could have standing to bring appeals.

Elisa Margolin Housing Action NH Oppose Nh Housing Action has been involved in developing this board for several years. Our developer cannot pass along the additional cost of

litigation along to their customers. The board will be a more efficient and effective appeal mechanism.

***Doug Marino** 603 forward Oppose e work for affordable housing to attract young people to our state. We think the Housing Appeals Board will help expedite and lower cost of new housing in Nh,

Jason Sorens Center for Ethics Oppose Local regulatory barriers are the primary reason Nh has a shortage of available housing. It isn't the law, per se, that obstructs, it is decisions of local boards. Many opponents are small landowners who don't want to fight the local board decision. Other states are looking at our Housing Appeals Board as a potential model.

William Sturtevant Self Oppose I am a b business owner with 21 employees in Portsmouth. My employees under age 35 live outside the state. Our state needs to be friendly to housing.

Robert Tourigny Self Oppose Single family homeowners often face the same challenges developers do. I have had planning board gell me they had no right to impose conditions, but they were going to do so anyway. I couldn't afford to go to court, so I paid an additional \$100K to get the project underway.

Ari Pollack Housing Appeals board should be given a chance.

Stay Work Play NH Oppose We advocate for more affordable housing in NH. Attracting more young people is critical for our state. Our data show that the number on reason young people leave is the cost of housing. Young people typically have student debt and lower incomes than they will have later on.



Rep Kurt Wuelper

House Remote Testify

Judiciary Committee Testify List for Bill HB288 on 2021-03-05

Support: 7 Oppose: 55 Neutral: 0 Total to Testify: 11

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<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Sorens, Jason	Amherst, NH jsorens@nym.hush.com	A Member of the Public	Myself	Oppose	Yes (5m)	No	3/3/2021 4:10 PM
Michael, Gregory	Concord, NH gregory.e.michael@hab.nh.gov	State Agency Staff	Housing Appeals Board	Oppose	Yes (5m)	No	3/3/2021 2:10 PM
Giuda, Bob	Warren, NH bob.giuda@leg.state.nh.us	An Elected Official	NH Senate District 2	Oppose	Yes (4m)	No	2/27/2021 12:43 PM
Berry, Elliott	Manchester, NH eberry@nhla.org	A Lobbyist	Myself	Oppose	Yes (3m)	No	3/4/2021 12:03 PM
Norwood, Chris	Bedford, NH cnorwood@nainorwoodgroup.com	A Member of the Public	NH Association of REALTORS	Oppose	Yes (3m)	No	3/4/2021 1:58 PM
Juvet, David	Concord, NH djuvet@biaofnh.com	A Lobbyist	Business & Industry Association	Oppose	Yes (3m)	No	3/4/2021 10:52 AM
Margolin, Elissa	Concord, NH elissa@housingactionnh.org	A Lobbyist	Housing Action NH	Oppose	Yes (3m)	No	2/28/2021 4:52 PM
Frost, Ben	Bedford, NH bfrost@nhhfa.org	State Agency Staff	New Hampshire Housing	Oppose	Yes (3m)	No	3/4/2021 5:19 PM
Sturtevant, Wm. North	Portsmouth, NH nsturtevant@jsainc.com	A Member of the Public	Myself	Oppose	Yes (2m)	No	3/4/2021 3:36 PM
Marino, Doug	Stratham, NH doug@603forward.org	A Lobbyist	603 Forward	Oppose	Yes (2m)	No	3/4/2021 5:38 PM
Tourigny, Robert	Manchester, NH rtourigny@nwsnh.org	A Member of the Public	Myself	Oppose	Yes (0m)	No	3/3/2021 3:15 PM
Fischer, Elizabeth	Concord, NH elizabeth.r.fischer@hab.nh.gov	State Agency Staff	Housing Appeals Board	Oppose	No	No	3/3/2021 2:11 PM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/3/2021 2:22 PM

Wells, Ken	Andover, NH kenwells3@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/28/2021 2:49 PM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/28/2021 3:33 PM
Birdsell, Senator Regina	Hampstead, NH regina.birdsell@leg.state.nh.us	An Elected Official	Senate District 19	Support	No	No	2/25/2021 3:36 PM
Greyes, Natch	Concord, NH ngreyes@nhmunicipal.org	A Lobbyist	New Hampshire Municipal Association	Support	No	No	2/26/2021 4:38 PM
Bates, David	Warner, NH dbates3@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/27/2021 7:30 AM
McLeod, Martha	Franconia, NH mmcLeod823@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 3:48 PM
Hancock, Ian	Hopkinton, NH ianhancock79@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 12:13 PM
Almy, Susan	Lebanon, NH susan.almy@comcast.net	An Elected Official	Myself	Oppose	No	No	3/4/2021 12:21 PM
Edwards, Elizabeth	Manchester, NH ecomstockedwards@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 1:42 PM
Hope, Lucinda	Tilton, NH lmhope46@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 3:20 PM
DiBacco, Aron	Deerfield, NH aron1208@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 6:09 PM
Feder, Marsha	HOLLIS, NH marshafeder@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 6:23 PM
Chretien, Suzanne	Manchester, NH suzannechretien3@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 6:28 PM
Carbonneau, Barbara	Goffstown, NH glenlake.nh@comcast.net	A Member of the Public	Myself	Oppose	No	No	3/4/2021 7:05 PM
George, Tess	Nashua, NH speakwell@comcast.net	A Member of the Public	Myself	Oppose	No	No	3/4/2021 7:11 PM
Rouillard, Claire	Goffstown, NH cdrouillard@comcast.net	An Elected Official	Myself	Support	No	No	3/4/2021 7:55 PM
Mennella, Alexandra	Hooksett, NH amennella1@protonmail.com	A Member of the Public	Myself	Support	No	No	3/4/2021 7:56 PM
Jones, Gisela	Lebanon, NH gisela1142@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 8:49 PM

Terai, Shideko	Cornish, NH mary.n.boyle@gmail.com	A Member of the Public	Myself - NH Resident	Oppose	No	No	3/4/2021 9:57 PM
See, Alvin	Loudon, NH absee@4Liberty.net	A Member of the Public	Myself	Support	No	No	3/4/2021 11:29 PM
Long, Julian	Rochester, NH julianleelong@yahoo.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 11:12 PM
Hegfield, Laura	NH, NH laurahegfield@comcast.net	A Member of the Public	Myself	Oppose	No	No	3/5/2021 7:43 AM
Howard Jr., Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Support	No	No	3/5/2021 8:33 AM
LaFleur, Linda	Londonderry, NH lflafleur@comcast.net	A Member of the Public	Myself	Oppose	No	No	3/5/2021 8:37 AM
Cote, Lois	Manchester, NH lcote06@outlook.com	A Member of the Public	Myself	Oppose	No	No	3/5/2021 8:55 AM
Lorentz, Carmen	Laconia, NH clorentz@lrcommunitydevelopers.org	A Member of the Public	Lakes	Oppose	No	No	3/5/2021 9:07 AM
Lewandowski, Jean	Nashua, NH jlewando@hotmail.com	A Member of the Public	Myself	Oppose	No	No	3/5/2021 10:31 AM
Pollack, Ari	Concord, NH pollack@gcgglaw.com	A Lobbyist	NH Homebuilders	Oppose	No	No	3/5/2021 10:40 AM
Quinn, William G	Claremont, NH 50dec62@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/5/2021 11:23 AM
Schmidt, Jan	Nashua, NH tesha4@gmail.com	An Elected Official	Myself	Oppose	No	No	3/5/2021 2:06 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Oppose	No	No	2/28/2021 5:39 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/28/2021 5:43 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	No	2/28/2021 8:04 PM
Donnelly, Ryan	Hudson, NH rdonnelly@gsil.org	A Lobbyist	Granite State Independent Living	Oppose	No	No	2/28/2021 11:10 PM
Pedersen, Michael	Nashua, NH PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Oppose	No	No	2/28/2021 11:36 PM
Johnson, Sara	Warner, NH nhchicagocubfan@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/1/2021 5:50 AM

Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/1/2021 9:59 AM
House, Don	Belmont, NH donhouse@metrocast.net	A Member of the Public	Myself	Oppose	No	No	3/1/2021 10:16 AM
Wrightsmen, Sarah	Raymond, NH director@seacoastwhc.org	A Member of the Public	Workforce Housing Coalition of the Greater Seacoast	Oppose	No	No	3/1/2021 1:50 PM
Ladd, Nancy	Warner, NH LADDNEWTON@HOTMAIL.COM	A Member of the Public	Myself	Oppose	No	No	3/1/2021 9:44 PM
Campbell, Kay	Epsom, NH kkcampbell43@yahoo.com	A Member of the Public	Myself	Support	No	No	3/2/2021 11:36 AM
Courser, Rebecca	Warner, NH rcourser@hotmail.com	A Member of the Public	Myself	Oppose	No	No	3/2/2021 9:19 AM
Cook, Richard	Warner, NH r_cook@mcttelecom.com	A Member of the Public	Myself	Oppose	No	No	3/2/2021 9:36 AM
spinney, cathy	Pelham, NH cspinney58@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 10:58 AM
Staub, Kathy	Manchester, NH kstaub@comcast.net	A Member of the Public	Myself	Oppose	No	No	3/4/2021 10:58 AM
Blais, Vanessa	Manchester, NH bessblais@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 10:59 AM
Murphy, Caitlin	Concord, NH violetfefay@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 11:03 AM
Dunn, Bob	Manchester, NH rdunn@rcbm.org	A Lobbyist	Roman Catholic Bishop of Manchester	Oppose	No	No	3/4/2021 11:29 AM
Bradbury-Koster, Ben	Rollinsford, NH benbradkost@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/4/2021 5:31 PM

Testimony

Morning,

The Windham Planning Board asked me to write you regarding House Bill 288, which if passed would repeal the Housing Appeals Board. We feel the Housing Appeals Board usurps the authority of local land use boards such as ours. Please support BH 288 and put an end to the unelected Housing Appeals Board.

As the Union Leader wrote in their recent editorial on this subject "How is it a good idea for an unelected state board to be in a position to overrule local zoning decisions made by the people in the community most affected by those decisions? This isn't a statewide gas line or highway project, these are housing units and developments that can very much affect, and change, neighborhoods, schools, and local taxes."

The Housing Appeals Board has the potential to do real damage to New Hampshire communities. Please support repealing it.

Sincerely,

Derek Monson
Windham, NH – Planning Board Chairman
20turtlerock@gmail.com
603-401-4316

Please OTP HB 288-FN, eliminating the housing appeals board.

Facilitating faster, cheaper overturning of Zoning And Planning Board decisions was never a good idea for anyone but developers.

Jim McConnell
42 Monadnock Highway
North Swanzey, NH 03431

HB 288-FN will be heard before the House Judiciary Committee on 03/05/2021 at 11:30 AM

We request that you OTP this bill as it is imperative to stop predatory developers from overriding and nullifying town votes and town boards.

Towns must have the ultimate control over what happens, as that is the NH way. The state should not be allowing special interests to override the will of the townspeople.

Thank You,

Jane Aitken ? themaclady@comcast.net
Bedford Residents Assn.
Bedford, NH 03110
Please SUPPORT HB 288

This bill would REPEAL the Housing Appeals Board.

The HAB allows developers to ride roughshod over all local town board decisions. This includes ANY BOARD. Our own developers from Bedford requested this, and if you recall, it failed three times and as a result, but then Senators Guida, Bradley, and Carson sneaked it into the budget last year.

The developers brag they are social friends of Sununu's. There is something not right about that. What is the point of voting for zoning in your town if a 3-person board can simply override it?

Since this is a component of the push to urbanize NH, we submit these reasons why we are opposed to it:

- In our opinion, the state has NO right to mandate towns to build certain types of housing*
- In our opinion, the state has NO right to re-educate zoning and planning boards into the philosophy of 'new urbanism'*
- This redistribution-of-the-wealth scheme has been proven to increase and draw from the taxes of the middle class single-family homeowners to reward wealthy developers*
- This equalization scheme will flood NH with apartment buildings in places they are not appropriate, putting further pressure on town services such as schools, police, fire, and EMT*
- Basically this is the same thing as Obama's AFFH. WHY is it being promoted by a Republican Governor and other Republicans.*
- This bill would be the end of the NH Advantage. NH's low density is what protected us from the worst effects of the pandemic, in the Governor's own words*
- We are against the URBANIZATION of NH in this manner as it takes away local control*

Jane Aitken ?themaclady@comcast.net
Bedford Residents Assn
Bedford, NH 03110
603-472-7488

RACOMMEND "OTP" barbara O'Neil ?barbaraoneil@comcast.net

HB 288 repeals the Housing Appeals Board . I would like to have you vote to **:RECOMMEND "OTP.**

Thank you,
Sandra Bell ?sandyclaire@comcast.net
20 year resident of Bedford

Good morning representatives, senator, & house judiciary,

1. HB 288-FN will be heard before the House Judiciary Committee on 03/05/2021 at 11:30 AM
We request that you OTP this bill as it is imperative to stop predatory developers from overriding and nullifying town votes and town boards. Towns must have the ultimate control over what happens, as that is the NH way. The state should not be allowing special interests to override the will of the townspeople.

Thank you,

Regina Barnes I am writing to strongly urge you to OTP HB 288. The Housing Appeals Board is totally against everything New Hampshire stands for. Local planning boards know their towns best. We have always stood for local decision making based on the voting of town residents. This bureaucratic board should not be able to overturn local laws and regulations and the decisions of town officials. This is not democracy and contrary to what has made New Hampshire a great state.

Bob MacPherson

Bedford

Hampton, NH

I am writing to strongly urge you to OTP HB 288. The Housing Appeals Board is totally against everything New Hampshire stands for. Local planning boards know their towns best. We have always stood for local decision making based on the voting of town residents. This bureaucratic board should not be able to overturn local laws and regulations and the decisions of town officials. This is not democracy and contrary to what has made New Hampshire a great state.

Bob MacPherson ?bob.macpherson@aol.com

Bedford

I am writing to you to ask that you support HB 288 which would repeal the Housing Appeals Board. This transparency? This bureaucratic board has the power to override the decisions of local planning boards.. This state board is totally against the way New Hampshire has governed for years. Also, in the middle of this pandemic economy the last thing we need is another layer of bureaucracy dictating to local government officials.

Bob MacPherson ?bob.macpherson@aol.com

Bedford, NH

To Who It May Concern,

The HAB allows developers to ride roughshod over all local town board decisions. Developers should never be able to override local decisions. We are what make NH, NH. Developers want nothing but to make a buck and this bill is directly undercut the citizen of our state.

Sincerely,

Laura Lee ?laurablee@yahoo.com

11 Birchwood Circle

Bedford, N-----

Please OTP HB 288.

Absent slipping it into last year's budget the Housing Appeals Board would never have seen the light of day. Please correct last year's end run around the legislature and return control to local town boards

where it belongs.

Jim McConnell
42 Monadnock Highway
North Swanzey, NH 03431
903-3878

Dear Committee,

Please vote to "OTP" HB 288-FN... It not right and opposes the will of the people and "Home Rule"

Thank you,

Sam Phillips, Bedford, NH [?sampnh@aol.com](mailto:sampnh@aol.com)

Morning,

Please vote in Opposition to HB 288. We are in support of the Housing Appeals Board as a key board to help reduce municipal costs and reduce impacts to property owners.

Sarah

Sarah Marchant, AICP [?marchants@nashuanh.gov](mailto:marchants@nashuanh.gov)
Community Development Division Director
603.589.3075

I would like to register my opposition to HB 288, and support for the Housing Appeals Board.

Thank you.

Jeanne Cusson [?jsirgus@comcast.net](mailto:jsirgus@comcast.net)
5 Cypress Street
Concord NH

I oppose HB288 and support the Housing Support Board.

Thanks

Callie McMahon [?cmcmahon28@comcast.net](mailto:cmcmahon28@comcast.net)

Dear Representatives,

We are writing in opposition to HB 288 in regards to ending the Housing Appeals Board. I believe this Board serves a useful purpose to the the community at large by providing a means to resolve conflicts about a housing issue quicker and at significantly lower cost .

My wife and I have for many years been involved with housing issues as advocates with a particular focus on homelessness issues. We have owned our home for over 40 years and have had 30 years experience owning rental homes.

Thank you for your consideration of our input.

Thank you ,
Bob and Hilary Keating [?rhkkeating@yahoo.com](mailto:rhkkeating@yahoo.com)

5 Coburn Woods

Nashua ,NH.
603-883-6903

Members of the Judiciary Committee,

I am writing in opposition to HB 288. We have a desperate shortage of housing in our state, which as a matter of supply and demand means housing prices continue to rise out of reach of people of modest means. Some of the hardest developments to permit and build are affordable housing for working people and seniors. Planning and Zoning Boards often subject developers of these types of communities (typically nonprofit organizations) to excessive studies and conditions as a means of wearing them down, knowing they don't have deep pockets and can't pass on extra costs to end consumers.

As a matter of equity, New Hampshire needs the The Housing Appeals Board to ensure swift review of housing related appeals, ultimately providing cost savings to the review process that will benefit consumers.

Please reject HB 288.

Thank you,
Lisa Henderson ?lisaafhenderson@gmail.com
Newmarket, N

Good Morning,

The Housing Appeals Board would like to respectfully submit this letter to the Honorable Chair and Members of the New Hampshire House of Representatives Judiciary Committee, in conjunction with its hearing of House Bill 288 on Friday, March 5, 2021.

The Housing Appeals Board sincerely appreciates your consideration of its opinion.

Respectfully submitted,
Housing Appeals Board

CLERK OF BOARD

New Hampshire Housing Appeals Board
Johnson Hall, 107 Pleasant Street
Concord, New Hampshire 03301
Office Line: (603) 271-1198
Email: clerk@hab.nh.gov
Official Website: <https://hab.nh.gov>

House Judiciary Committee Members: I support the repeal of the Housing Appeals Board legislation as proposed in HB 288.

By way of background, I've been the Planning Director in Salem for the past 37 years. In that time, the Salem Planning Board has approved over 3500 units of housing. The Town has allowed accessory apartments since 1989. Salem adopted a workforce housing ordinance in 2010 and approved 3 projects under it so far. Our Zoning Board regularly approves variances for construction of new homes on undersized lots. Recently, the Planning Board approved 700 units of multi-family housing at the new

Tuscan Village project. And they just approved a conceptual plan for another 500 units. We've seen a lot of housing development in Salem!

The Housing Appeals Board legislation has many problems.

First, the existing legislation is too broad. It allows appeals of any local decision relating to housing and housing development made by the Planning Board, Zoning Board, Conservation Commission, or Historic District Commission. The appeals do not have to relate to affordable housing, so every denial of any aspect of a housing unit, whether a variance for reduced side setbacks for a single house or a site plan for a 200 unit apartment project, is subject to an appeal. This will lead to many more appeals than current conditions. Local Boards and staff will be constantly collecting certified records and working with (and paying) our attorneys to defend the appeals. At the very least, the NH Legislature should consider restricting the Housing Appeals Board jurisdiction to only affordable/workforce housing projects.

Second, the Housing Appeals Board members will be acting as judges, interpreting regulations and balancing the interests of various parties to a lawsuit, but they will be unqualified for the job. Membership on the Board will include an attorney and a professional engineer or land surveyor. They will be charged with deciding whether a community's land use regulations provide a reasonable opportunity for workforce housing development, whether conditions of approval render a project economically unviable, and whether a Board was unreasonable or unlawful. But Board members will have no experience weighing the many factors that go into a local Board's decision. This job is best left to judges.

Third, the Housing Appeals Board will not accomplish the goal of increasing affordable housing since the market and construction costs set the price of housing. Some have argued that local regulations and local Board practices make housing unaffordable. In Salem, almost all housing applications are for market rate housing. Builders and developers make more money from market rate projects and that is clearly what they want to build. In fact, recent higher density housing (such as our senior housing projects or the new Tuscan Village apartments and townhouses) is even more expensive than existing lower density housing, due to high land values and construction costs, not local regulations.

Thank you for considering my comments on HB 288. Please contact me if you have any questions.

Ross Moldoff, Planning Director
Town of Salem, NH
33 Geremonty Drive
Salem, NH 03079
603-890-2083
rmoldoff@salemnh.gov
www.townofsalemnh.org

Please vote to oppose this bill and allow housing appeals board to continue.

David Ross ?<davidross2243@comcast.net>
27 S Spring St
Concord NH

Good Day Judiciary Committee Members,

I am a housing/homeownership counselor for NeighborWorks Southern NH. My clients and residents of NH are in dire need of additional housing choices and face opposition, unfortunately from many towns in the state. The Housing Appeals Board is a good and just avenue for developers to bring their concerns.

I'd like to share my OPPOSITION to HB 288 and support for the Housing Appeals Board.

Kind Regards,
Evelyn Rivera ?evelynr@nwsnh.org
HUD Certified Homeownership Counselor

Good afternoon,

I am writing to express our opposition to HB 288 and our support for the Housing Appeals Board (HAB).

The Housing Appeals Board:

- Provides cost savings to the review process that will benefit consumers;
- Allows for swift review of housing related appeals; and
- Creates easier access for appeal for all property owners.

While the HAB does not take away a developer's right to seek relief from the courts, it does offer a faster, less expensive process and in so doing, will help New Hampshire make desperately needed progress towards addressing our lack of adequate housing for our workforce and for our elderly and disabled neighbors, friends and loved-ones.

Thank you very much for your consideration.

Sincerely yours,

Joshua R. Meehan ?jmeehan@keenehousing.org

Executive Director

Keene Housing

831 Court St.

Keene, NH 03431

Office 603-283-5447

Cell 617-312-7622

Please do NOT pass HB 288. I am very much in favor of the Housing Appeals Board. It provides cost savings, a quick review, and easier access for appeal for property owners. It benefits the tenants and the landlords.

Thank you for considering my opinion.

Ellen Fries ?toehfries@gmail.com
Bow, NH

To the Honorable Members of the House Judiciary Committee,

I am writing in opposition to HB 288, which would eliminate the newly established Housing Appeals Board.

The Concord Coalition to End Homelessness is committed to ending homelessness in the greater Concord area, and one of the major barriers we face is the lack of affordable housing. Additionally, the severe lack of affordable housing in New Hampshire is not only affecting people who are homeless or very low incomes; it is also affecting the State's ability to attract and retain a vibrant workforce.

CCEH recently developed our first affordable housing project, which was the renovation of a downtown office building into 4 one-bedroom apartments, prioritized for people exiting homelessness. Though this was our first project, we intend to continue to expand our development expertise, and to partner with other housing developers to create more affordable housing units, towards our goal of ending homelessness.

Developers of affordable housing often face opposition that is based on misinformation and stereotypes. Before the creation of the Appeals Board, those opposed to a project could delay a project to the point where it was no longer financially feasible. The Housing Appeals Board held the promise of allowing fair and timely resolution of any issues, so that worthy projects can proceed.

I urge you to oppose HB 288 and maintain the Housing Appeals Board.

Thank you for your time and your service.

Ellen
Ellen Groh ellen@concordhomeless.org
Executive Director
Concord Coalition to End Homelessness
238 N. Main Street, Concord NH 03301
P.O. Box 3933, Concord NH 03302-3933
(603) 290-3375, ext 201
concordhomeless.org

Dear Members of the House Judiciary Committee:

My name is Jonathan Spira-Savett. I'm a resident of Nashua, rabbi of Temple Beth Abraham, president of the Nashua Area Interfaith Council, and co-convenor of the Greater Nashua Interfaith Housing Justice Group. I'm writing to ask you to oppose HB 288, the proposal to repeal the recently established Housing Appeals Board.

Governor Sununu, community development officials statewide, and those of us working to increase affordable housing all supported the establishment of the Housing Appeals Board. It reduces costs associated with development in a way that benefits those who build as well as consumers, enables developers to plan and to rely on decisions made in a timely way, and generally opens up appeal access for all property owners. A lot of thought has gone into developing some of the new legal frameworks that will allow developers, nonprofits, municipal planners, and citizens to collaborate on eliminating a shortage of affordable housing of at least 20,000 units statewide.

I speak on behalf of religious leaders all across Greater Nashua in opposing HB 288 and hope that you and your committee will do the same. Thank you for your service and your work for our state during these challenging times.

Sincerely,
Rabbi Jonathan Spira-Savett <rabbijon@tbanashua.org>

Members of the Judiciary Committee:

Attached, please see the letter from New Hampshire Housing in opposition to HB 288.

Thank you,

Ben Frost

~~~~~

**Benjamin D. Frost, Esq., AICP**  
Managing Director, Policy and Public Affairs  
New Hampshire Housing Finance Authority  
(603) 310-9361  
[bfrost@nhhfa.org](mailto:bfrost@nhhfa.org) | [www.nhhfa.org](http://www.nhhfa.org)

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Thank you Chairman Gordon and members of the committee. My name is Doug Marino, I am the Advocacy and Engagement Director for 603 Forward. 603 Forward is an advocacy organization whose aim is to educate, engage, and activate the youth of New Hampshire to take political action at the state and local level. I am writing to you today to express our organization's opposition to HB 288-FN.

The establishment of the Housing Appeals Board is a very important reform that is helpful to local municipalities who are trying to keep up with the demand for affordable housing in our state.

In order to attract and retain more young people to our state, we need to take steps to promote affordable housing. Eliminating the Housing Appeals Board runs contrary to this goal because we will have to revert back to the previous system which was overly time consuming and in some cases involved expensive litigation.

The Housing Appeals Board does not hinder local control. Local governments still have the power to make their own decisions and any ruling that is made by the Housing Appeals Board can still be appealed, although the process is much more efficient than the previous system.

We strongly urge you to send HB 288-FN to the floor with a recommendation of "Inexpedient to Legislate." Thank you for your consideration.

Respectfully,

Doug Marino

--  
Doug Marino  
He, Him, His  
Advocacy and Engagement Director  
603 Forward  
603.686.3283

[doug@603forward.org](mailto:doug@603forward.org)

@Doug\_Marino

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As a faith leader and as an individual I wish to express my OPPOSITION to HB 288 and my SUPPORT for the Housing Appeals Board which:

- Provides cost savings to the review process that will benefit consumers;
- Allows for swift review of housing related appeals; and
- Creates easier access for appeal for all property owners.

Rev. Cheryl L. Meachen, Lead Pastor    [?cheryl.meachen@gmail.com](mailto:cheryl.meachen@gmail.com)

Wesley United Methodist Church

79 Clinton Street

Concord NH 03301-2300

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To Members of the House Judiciary Committee:

I am a resident of Hollis and a supporter of affordable housing in New Hampshire. I also serve on the Board of Neighborworks of Southern NH.

I am writing to voice my opposition to HB 288 - FN and my support for the Housing Appeals Board (HAB).

The HAB was established to provide a more cost effective, easier and efficient means for property owners to appeal housing-related decisions made by local jurisdictions. I believe its purpose and structure are beneficial to the future development of affordable housing in the state. In addition, given that the HAB only just started its operations this past January, and is operating in the midst of the COVID pandemic, I think it is inappropriate to eliminate HAB funding before the Board's benefits can be fully identified and evaluated.

I urge you not to support the passage of this bill.

Thank you,

Thomas Breslawski    [?<tombreslawski@gmail.com>](mailto:tombreslawski@gmail.com)

Hollis, NH

---

Please vote no on this bill because we need this board more than ever in these trying times, especially concerning the housing situation in the state.

Sincerely

Bill Quinn    [?<50dec62@gmail.com>](mailto:50dec62@gmail.com)? [50dec62@gmail.com](mailto:50dec62@gmail.com)

Claremont NH.

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Thank you for the opportunity to provide testimony relative to SB 15. My name is Keith Thibault and I represent Southwestern Community Services (SCS), the Community Action Agency serving Cheshire and Sullivan counties. Since its founding in 1965, SCS has provided educational, medical, nutritional, medical and housing programs for New Hampshire's children and their families. SCS has developed, owns and operates nearly 500 apartment units throughout Cheshire and Sullivan counties. Provision of secure, safe and affordable housing has been a major piece of SCS' work since 1990.

SCS' housing development efforts have often been delayed, and at times obstructed, by local Zoning Boards and Planning Boards. While, in nearly all the cases, we have persevered at the local level or through court decisions, the delays and holding costs associated with these delays were extremely difficult to overcome. The NH Housing Appeals Board would have been the perfect vehicle to overcome improper local "decision-making" and allow perfectly allowable multi-family housing developments to proceed. Given NH's Workforce Housing current needs, the defeat of this bill is critical.

We oppose HB 288 and feel that you should as well. Thanks for taking the time to consider our position.

Keith...

Keith F. Thibault  
***Southwestern Community Services***  
**(603)719-4208 (office)**  
**(603)209-1652 (cell)**  
[kthibault@scshelps.org](mailto:kthibault@scshelps.org)

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Please pass the repeal of the Housing Appeals Board.

It is a Bolshevik-style central planning method to override the will of the townspeople.

Even the Union Leader said it was not the right way to go!

<https://us-east-2.protection.sophos.com?d=unionleader.com&u=aHR0cHM6Ly93d3cudW5pb25sZWFKZXIuY29tL29waW5pb24vZWRpdG9yaWFscy9uaXgtbGhLLWFwcGVhbHMtYm9hcmQtaXQtcy1ub3QtdGhLLXdhS10by1hZGRyZXRzLWVhdXNpbmVmcvYXJ0aWNsZV9iYjc2ZDRkOC1lZDA1LTUzYmYtYjcxZC1kMWZiYmZmZjZhODEuaHRtbA==&i=NWViOWEzNmVkMDA3MzlxNzcxMzJhMTI5&t=VXRTdkRGenptZGE3bE14WGoxRGZEdlBkRTlhM2xpTk5oZ1NjSW8xbWJ4dz0=&h=d34fac2cadd1448a90c6434c23c6b142>

Thank you

Jane Aitken    [?themaclady@comcast.net](mailto:themaclady@comcast.net)  
Bedford NH

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Dear State Leaders,

I write to you today in opposition to HB 288 which would eliminate the Housing Appeals Board. In what NH reality are we living where anything that would support fair, just, and equitable housing opportunities and safety nets is suggested for elimination? The Housing Appeals Board not only increases the speed with which an review or appeal of housing issues is undertaken - by both property owners and those seeking housing, but also increases cost savings for any reviews because of the process. Now is NOT the time to remove any safeguards on either side of the housing market without drastic and dire impact for all. Slow the talking points, look to the people involved and support a system that when in full effect will not only be a cost saving process but one that ensures property owners and renters are treated fairly and are held accountable. Just, fair, and equitable housing is right we must continue to fight for.

Sincerely,

The Rev. Kimber. S. C. Hester  
Nashua, NH

The Rev. Kimberly S. C. Hester  
Pastor  
*she/her/hers*

**Christ the King Lutheran Church**

3 Lutheran Drive  
Nashua, NH 03063  
(603) 882-6142  
[pastor@ctknashua.org](mailto:pastor@ctknashua.org)

***We celebrate and joyfully share Christ's love as we grow in faith and serve ALL.***

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March 8, 2021

The New Hampshire House Judiciary Committee  
State House  
Concord, NH 03301  
Re: HB 288

My name is Angela Zhang, and I am the Programs Director at LISTEN Community Services, a nonprofit which services the critical needs of the New Hampshire constituents within the lower Grafton County/Upper Valley region. I am in charge of overseeing all of our social services, including rental assistance, utility assistance, and our food pantry.

I write to you today, as an affordable house advocate, in order to express my opposition to HB 288 and support for the Housing Appeals Board. The Housing Appeals Board fulfills an essential role in helping to meet New Hampshire's affordable housing shortage. For instance, the Board (1) provides cost saving to the review process that will benefit consumers; (2) allows for swift review of housing related appeals; (3) creates easier access for appeal for all property owners.

At LISTEN Community Services, we have seen first-hand the great economic burden that this pandemic has placed upon many New Hampshire residents, as they navigate the shortage of affordable housing in the state. People are losing their homes and staying in homelessness longer. I'd like to share with you just a few stories of LISTEN's clients:

- Jessica and Mark called LISTEN to ask for help finding housing in the Upper Valley. They are currently both homeless and living in a van in Grafton County. They are both getting jobs, and are looking for permanent housing. We provided them a list of local landlords, applications for affordable housing, and information for homelessness resources. Given the lack of availability of housing in this area, it will be at least several months before they will be able to find an apartment.
  
- LISTEN service coordinators met with Edward, who is moving out of a residential program for substance use. He was worried that the program would make him leave on short notice, and he would have nowhere to go. His time at the program was up several weeks ago, and he was unable to find a new apartment, despite searching for housing as soon as he got there.

- Sarah is looking for an apartment after her boyfriend broke up with her. She is currently staying with her brother but doesn't think she can stay there much longer. She can't find a new apartment due to the lack of housing in this area and is currently working with our service coordinators to apply for anything she can find.
- Kenny, Amy, and their two children have been homeless since last year. Over the summer, they were camping on someone's private property, but have been living in a motel since then. They are looking for sustainable housing, but it will be months before they can find an affordable apartment. In the meantime, staying in the motel, while providing a roof over their heads, is using up all their income and they will have difficulty saving up for a security deposit.

By eliminating this Board, which expedites the development process, you will deprive the residents of New Hampshire of a critical component of meeting the state's affordable housing shortage. New Hampshire residents need the Housing Appeals Board, and that is why I implore you to oppose HB 288.

On behalf of LISTEN Community Services and the Upper Valley residents whom we serve, thank you for your time and for your support of affordable housing initiatives.

Sincerely,  
Angela Zhang

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**Angela Zhang, MSW**  
**LISTEN Community Services – Program Services Director**  
[603.448.4553](tel:603.448.4553) x1009 | [Angela@listencs.org](mailto:Angela@listencs.org)  
60 Hanover St | Lebanon, NH 03766-1228

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Rep Kurt Wuelper



March 5, 2021

The Honorable Edward Gordon, Chair  
House Judiciary Committee  
Legislative Office Building, Room 208  
Concord, NH 03301

***Subject: HB 288-FN – eliminating the housing appeals board***

Dear Chairman Gordon:

I am writing to express New Hampshire Housing’s opposition to HB 288-FN, which would repeal the Housing Appeals Board statute, RSA Chapter 679. The Housing Appeals Board was created by the Legislature to provide an alternative appeals process for local decisions on proposals for housing and housing developments.

New Hampshire’s housing market is increasingly unable to meet the needs of our citizens to find adequate housing in the communities where they want to live and work. The supply of housing is simply not keeping pace with demand, and this is making housing more expensive. For the past several years, our statewide rental vacancy rate has been under 2%, well below the 5% we consider to indicate a balanced market. For home purchasers, the median price of a home was \$334,500 in January 2021, more than 16% higher than a year earlier. The inventory of homes for sale is critically low.

This lack of supply is partly a reflection of the difficulty faced by property owners and developers in some communities as they have put forth proposals to create new housing. They often encounter resistance in the form of unnecessary regulations, onerous conditions of approval, or unreasonable denials. Frequently, they also face resistance from neighborhood opposition, which is able to use the appeals process to delay project development, often for many years. That delay either adds significantly to the ultimate cost of development, or simply discourages housing construction.

It is clear that some communities are effectively accommodating the needs of our citizens for more housing. It is also clear that those communities should not be the only ones to shoulder that responsibility. The Housing Appeals Board provides a faster, easier, and less expensive appeals mechanism for housing development proposals. It provides property owners and builders with an enhanced opportunity to appeal local decisions, yet it achieves this without infringing on local control. No changes to local zoning or process are required by the Housing Appeals Board, and the Board applies the same legal standards as superior court in adjudicating decisions of local boards. The Housing Appeals Board is part of a truly “New Hampshire” solution to the problems of our housing market.

**NEW HAMPSHIRE HOUSING FINANCE AUTHORITY**

32 Constitution Drive, Bedford, NH 03110  
Mail: PO Box 5087, Manchester, NH 03108

603.472.8623  
NHHFA.org





After its formal establishment a little over six months ago, the Housing Appeals Board has recently started to accept appeals. We look forward to working with the Legislature to review the Board's decisions to identify areas of possible future improvements to RSA Chapter 679. It seems inappropriate to take the action to repeal the Board before it has demonstrated its potential worth to our state. We respectfully urge your committee to recommend HB 288-FN inexpedient to legislate.

Thank you for the opportunity to provide testimony to your committee. The staff of New Hampshire Housing will be happy to provide any additional information that your committee may require.

Sincerely,

DocuSigned by:

*Dean Christon*

83A73FB7E66647C...

Dean J. Christon  
Executive Director

cc: Committee members

**THE STATE OF NEW HAMPSHIRE  
HOUSING APPEALS BOARD  
Governor Hugh J. Gallen State Office Park**

Johnson Hall, Room 201  
107 Pleasant Street  
Concord, NH 03301  
Telephone: (603) 271-1198  
TDD Access: Relay NH 1-800-735-2964  
Email: [clerk@hab.nh.gov](mailto:clerk@hab.nh.gov)  
Visit us at <http://hab.nh.gov>



**To:** The Honorable Chair and Members of the New Hampshire House of Representatives Judiciary Committee  
**From:** New Hampshire Housing Appeals Board  
**Subject:** Objection to House Bill 288

As the committee is aware, the New Hampshire Housing Appeals Board (HAB) was established on July 1, 2020 when NH RSA 679 took effect. The first two members of the three member board were appointed by the New Hampshire Supreme Court and Commissioned by the Governor on October 14, 2020.

Subsequent to that date the HAB, together with excellent assistance provided by the New Hampshire Department of Administrative Services, hired a clerk, fit-up office space in Johnson Hall, established a website containing information and filing forms, and voted to adopt administrative procedural rules as allowed by NH RSA 679:12. Promptly after our clerk was hired, we commenced accepting cases and, within 45 days, two cases were filed and are being processed in strict accordance with the time mandates of NH RSA 679:6.

An examination of NH RSA 679 reveals a number of reasons why the New Hampshire Legislature deemed it important to establish a Housing Appeals Board in New Hampshire.

First, the statute establishes a three member multidisciplinary board bringing together professional skills important in adjudicating local land use decisions related to housing. As this Committee is well aware, zoning and planning under any statutory scheme can be a technical juggernaut for all participants since a combination of legal, survey, engineering and real estate disciplines intertwine and are components of many land use housing decisions.

The New Hampshire Legislature was not being critical of the Superior Court in establishing the HAB, since both the HAB and Superior Court share jurisdiction in these cases so a petitioner can choose where to file an appeal. However, the General Court felt that having; 1) an attorney with land use experience; 2) an engineer or surveyor with land use experience, and 3) a citizen skilled in real estate matters could carefully and effectively review and promptly adjudicate local land use housing cases by applying their collective skills. This brings a new level of expertise to ensure fairness to both sides in any land use housing appeal.

Second, while the Superior Court does its best to promptly schedule and decide land use cases, it is often constrained by a criminal docket and other important matters which take priority over these appeals. The HAB has no such constraint. Its sole statutory purpose is to hear and decide these appeals and NH RSA 679:6 mandates stringent time limits to ensure prompt resolution. This is important to all

parties since if a housing-related project is denied or approved at the local level and appealed, quick resolution of the appeal can:

- 1) Get the project promptly started if the project was originally approved at the local level and the appeal upholds that approval; or
- 2) If the appeal decision reverses a local approval or affirms a denial, the affected party or parties can quickly proceed to redesign or “fix” deficiencies.

Thus, HAB decisions help meet the Legislative objective of facilitating new housing opportunities for New Hampshire residents so long as housing proposals meet all local zoning ordinances and planning regulations.

As an aside, and contrary to some repeated speculation, NH RSA 679 does not allow the HAB to:

- 1) Change or modify local municipal zoning ordinances;
- 2) Change or modify local municipal subdivision regulations;
- 3) Change or modify local municipal site plan regulations;
- 4) Change or modify local municipal master plans;
- 5) Change or modify local municipal conservation commission or historic district commission rules and regulations;
- 6) Promote zoning “concepts” such as “new urbanism,” or greater residential density allowances.

In fact, the HAB case review standards are identical to those used by the Superior Court and mandated by statute. Specifically, to decide cases based upon a review of the local land use board’s certified record which contains copies of the minutes, testimony and documents presented to the local land use board. Like the Superior Court, the HAB is not a forum for a “new trial” nor does it act as a “super zoning or planning board.” Except for extraordinary circumstances, evidence not seen or heard by the local land use board is not accepted or considered by the HAB.

The goal of the HAB is to conduct a fair, prompt hearing by experienced board members to ensure no unreasonable or unlawful decisions have been made by a local board. NH RSA 679:9, II. And, as to workforce housing plans, to ensure a local board has not imposed conditions that “render the proposal economically unviable.” NH RSA 679:5, III.

Finally, the New Hampshire General Court was concerned about the cost of commencing or defending a local land use appeal. After all, a right to appeal and mount a defense is ineffectual if you cannot afford it.

Thus, NH RSA 679:10 allows any party to an appeal to use a professional engineer, architect, or a land surveyor as their representative before the HAB. In many cases, these individuals may have a better grasp of the issues than anyone else. Also, any party may appear “pro se” or may request that another suitable individual represent them before the HAB. These allowances also apply to cities and towns and in some cases municipalities could choose to use members of their planning staff or its consulting engineers or surveyors. Of course, attorneys are also welcome participants.

In addition to the foregoing, our filing fees are less than the Superior Court and a new appeal petition can be filed directly with the HAB with a copy to the other party or parties by mail, e-mail, in-hand delivery, or Federal Express/UPS. Sherriff service, although allowed, is not required under RSA 679, but the HAB does require a simple filing certification that the petition has been delivered to all parties. Again, this process allows land use appeals to be commenced more expeditiously and at less expense which is consistent with the mandates of NH RSA 679.

Thank you for reviewing our comments: please remember that in 2020 the New Hampshire General Court voted to change the paradigm regarding land use housing appeals. In summary, part of its focus was:

- 1) Expertise in reviewing appeals;
- 2) Expedited appeal process;
- 3) Expense of an appeal reduced.

We respectfully urge the Committee to reject the House Bill 288.

Respectfully submitted,  
**HOUSING APPEALS BOARD**

By: 

\_\_\_\_\_  
Gregory E. Michael, Chair

By: 

\_\_\_\_\_  
Elizabeth R. Fischer, Member

Bill as  
Introduced

HB 288-FN - AS INTRODUCED

2021 SESSION

21-0420  
11/06

HOUSE BILL **288-FN**

AN ACT eliminating the housing appeals board.

SPONSORS: Rep. Abbas, Rock. 8; Rep. Roy, Rock. 32; Sen. Birdsell, Dist 19; Rep. Gould, Hills. 7; Rep. Kelsey, Hills.  
7

COMMITTEE: Judiciary

ANALYSIS

This bill repeals the housing appeals board.

Explanation: Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struck through~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.  
21-0420  
11/06

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT eliminating the housing appeals board.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1 Compensation of Certain State Officers. Amend RSA 94:1-a, I(b) by deleting the following:  
DD housing appeals board member  
DD housing appeals board chair
- 2 Repeal. RSA 679, relative to the housing appeals board, is repealed.
- 3 Effective Date. This act shall take effect 60 days after its passage.

LBA  
21-0420  
12/23/20

HB 288-FN- FISCAL NOTE  
AS INTRODUCED

AN ACT eliminating the housing appeals board.

FISCAL IMPACT:     State             County             Local             None

| STATE: | Estimated Increase / (Decrease) |         |         |         |
|--------|---------------------------------|---------|---------|---------|
|        | FY 2021                         | FY 2022 | FY 2023 | FY 2024 |
|        |                                 |         |         |         |

|                        |                                             |                                    |                                  |                                |
|------------------------|---------------------------------------------|------------------------------------|----------------------------------|--------------------------------|
| <b>Appropriation</b>   | \$0                                         | \$0                                | \$0                              | \$0                            |
| <b>Revenue</b>         | \$0                                         | \$0                                | \$0                              | \$0                            |
| <b>Expenditures</b>    | \$0                                         | (\$404,648)                        | (\$415,000)                      | (\$415,000)                    |
| <b>Funding Source:</b> | <input checked="" type="checkbox"/> General | <input type="checkbox"/> Education | <input type="checkbox"/> Highway | <input type="checkbox"/> Other |

**METHODOLOGY:**

This bill eliminates the 3 member Housing Appeals Board, which is administratively attached to the Department of Administrative Services (DAS). DAS assumes the bill will take effect July 1, 2021. It will have no impact on FY21 but some operating expenses incurred through June 30, 2021 will be payable in FY22, including staff hours worked, expenses for office space and rental equipment and telecommunication services. The estimated cost of operating and maintaining the board for FY21 through FY24 was \$415,000 per year. As of December 15, 2020, 2 of the 3 board member positions have been filled (DD step 1 pursuant to RSA 94:1-a, I(b)) and a temporary part time administrative position (Account Clerk III, LG9 step 1) has an anticipated hire date of January 15, 2021.

The Judicial Branch states that given the short period that the Housing Appeals Board has been in effect, it is assumed few if any cases have been filed with the Board. As a result, the Branch assumes there will be little if any change to current caseloads or filings in the Superior Court with the repeal of the Board.

**AGENCIES CONTACTED:**

Department of Administrative Services and Judicial Branch