

# **Dispelling the Myth of Home Rule**

*Local Power in Greater Boston*

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## 5. Thinking as a Region

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*“Municipalities in the region suffer from the belief that those people over there, they’re four miles away, [and] they’re different than us. . . . We’ve failed in local government to be willing to take on the idea of more efficiency and effectiveness by going outside our physical boundaries.”*

—Public official from Franklin

We have seen that Massachusetts places significant limits on the home rule of the 101 cities and towns in the Boston region. These limits range from the substantial exceptions to their general home rule authority set forth in the state constitution, to the pervasive shadow of state preemption, to state statutes that restrict municipal authority over budgeting, land use, and education. These limits do not go unnoticed by those charged with exercising local power. Comments from local officials quoted throughout this report testify to their understanding that, in many respects, home rule does not exist in Massachusetts in any meaningful sense.

Yet, for all their complaints about the illusory nature of home rule, the region’s local officials do not regard it as unimportant. There is no better indication of this than the answers they gave to questions about the benefits of regionalism. Even though relatively few officials suggested that home rule authority was strong in Massachusetts, a large number referred to its importance in response to questions about regionalism. Some who spent much of their interview emphasizing the state’s dominant role—and the relatively trivial amount of power that it had left to cities and towns—made an abrupt about face when it came to regionalism. Suddenly, the power of the city or town to control its future—a power that they had earlier suggested had effectively been taken from them—was at risk of being lost.

The prevalence of this mindset might be thought to support the conventional view that the attachment to home rule makes progress in addressing regional concerns unlikely in Massachusetts. This conclusion seems to us too simple. As many of those interviewed noted, the decisions made by the region’s cities and towns affect their neighbors even on issues traditionally considered local in scope. This inter-local effect is obvious when one considers the three issues just discussed: revenue, land use, and education. Attempts to attract businesses and residents in an effort to increase property values produce a parallel downturn in the municipalities left behind. Encouraging commercial development causes traffic problems across the border, and efforts to prevent the development of multi-family housing

force potential residents to move to municipalities that accept it or already have it. Comparisons about educational quality help some municipalities at the expense of others, while students, however educated, move from one part of the region to another. And it's not just the municipalities that are inter-connected. Transportation systems, business transactions, television networks, and environmental impacts also do not stop at municipal boundaries, and residents who live and vote in one municipality shop, work, and party in others.

Because of these interconnections, many officials agreed that a municipality's ability to address its problems depends on more than its ability to regulate the affairs that occur within its own borders. A locality's ability to react to its residents' needs depends in important respects on its ability to coordinate, communicate, and cooperate with other cities and towns within the region. Any analysis of home rule in the Boston region would be incomplete, therefore, without an account of the ability of cities and towns within it to think and act regionally.

In the remaining sections of this report, we address the complex relationship between home rule and regionalism revealed by our examination of the state's legal structure and our interviews with local officials. We begin by describing the understanding of the relationship between home rule and regionalism that emerged from the interviews. We then consider the role that state law plays both in enabling and frustrating the ability of cities and towns in the region to work with each other. We conclude by examining some ways in which the state might promote regionalism while, at the same time, enhancing home rule.

## **ATTITUDES ABOUT REGIONALISM AND HOME RULE**

One reason so many officials perceive regionalism as a threat to home rule relates to a key finding that emerged from our interviews: there is little sense that the boundaries of the Boston region define a community of shared interest. The region we examined is very large. Its borders contain upwards of 3 million people (more than half the state's population) and span more than 1,400 square miles. Within that space are "coastal communities, older industrial centers, rural towns, and modern cities."<sup>1</sup> Most of the municipal officials to whom we spoke saw little in common with cities or towns in the region that were far from them, different in size, or different in community character. They often described cooperative efforts from a perspective that assumed a competitive division between the city and the suburbs, or inner-ring suburbs and outer-ring suburbs, or the North Shore and Metro West, or their own town's population and that of their neighbors.

The reluctance to join with other towns to form regional school districts provides an example of this phenomenon. State law authorizes inter-local agreements establishing regional school districts,<sup>2</sup> and their creation would save many localities money. Yet the attachment to local control over public schools—along

with the general atmosphere of inter-municipal competition—makes efforts to form regional school districts difficult. A Medway official said that in Massachusetts “everyone seems to want their own schools and there’s a lot of competition.” In some municipalities, constituents oppose regional school systems because it would result in a diverse student body. A Medfield official stated that the town “looked at regional schools at one point,” but the possibility was promptly defeated by “snobby attitudes from communities including this one: ‘We don’t want our kids going to school with kids from Sherborn and Millis.’” According to an official from Franklin, these attitudes about schooling reflect a deeper sensibility. Municipalities in the region, he explained, suffer from the belief “that those people over there, they’re four miles away, [and] they’re different than us . . . . We’ve failed in local government to be willing to take on the idea of more efficiency and effectiveness by going outside our physical boundaries.”

When regional thinking does occur, the municipal officials we interviewed tended to identify with smaller sub-regions within the region rather than the region as a whole. To the extent they saw benefits to regionalism, they agreed with an administrator from Bedford who described regional cooperation as occurring primarily “with the immediately surrounding towns.” The general sentiment was that this compact definition of the region better accounted for the shared problems, desires, and goals of the individual municipalities involved. In one telling comment, an official of a relatively small North Shore town expressed enthusiasm for establishing greater connections with the large city in the region, but the city that this official had in mind was Gloucester, not Boston.

In contrast to their affinity for these small clusters of communities, respondents saw the boundaries defined by regional planning agencies and county-based administration as arbitrary and over-inclusive. A Duxbury official explained: “The cooperation among municipalities has always been perverted, in my opinion, because there were these arbitrary boundaries . . . called counties or called regional planning agencies that had nothing to do with the communities themselves. We wanted [to cooperate] by contiguous boundaries, where the towns have some of the same needs.” A respondent from Medway agreed that county lines and broad regional boundaries grouped together communities that had little in common. He supported localities taking regional concerns into account but not “on a county basis—Medway is a part of Norfolk County, but we have little in common with towns like Quincy and Braintree. I would want it on a smaller and more local basis.”

This limited conception of the region has had an important impact on the kind of regional efforts that municipal officials seem willing to pursue. Inter-local coalitions are scaled down to contiguous localities. Inter-municipal associations, arranged to support municipalities with shared experiences and common problems, organize around geographic boundaries. By contrast, efforts at a scale

that encompasses the Boston region as a whole are rarely attempted spontaneously—and not simply because it would be more difficult to coordinate with such a large number of jurisdictions. An official from Holliston explained that his town works with the 10 or 12 nearby towns but that there was little commonality with other towns in and around Boston. “A new mall in Newton wouldn’t really affect us,” he said.

A state effort to promote inter-local connections at the scale of the Boston region would, therefore, strike many local officials as an attempt to force them to share power with utter strangers, if not outright antagonists. To many, the Boston region seems no more connected to the interests of their municipality than the state itself. Reflective of this sentiment were the comments of an official from Reading, who argued that “the greater Boston region is too large to be manageable. Its problems are too diverse . . . . Appropriately sized and governed counties are great, but otherwise counties and other forms of regional governing bodies are bad. The Boston Regional Area is not the way to go. We’ve had some colossal failures with that.” A respondent from Malden was even more blunt: “I couldn’t support regional government at all . . . . Each community has its own unique set of circumstances and facts and issues. You need to be local on most issues. On the regional issues, you pick and choose which relationships you want to be involved with; we don’t need an all encompassing regional government . . . . I don’t care about traffic unless it impacts Malden.”

### **Conflicts Between Home Rule and Regionalism**

The lack of association with the Boston region as a whole is coupled with a strong sense among many of those we interviewed that having “home rule” meant local independence and autonomy. An Acton official explained that there is a “huge emphasis on self-reliance” in Massachusetts, and it is generally considered a “badge of honor to be independent of everybody else around you.” Cooperation, by contrast, was described, even by some of its supporters, as disempowering. An administrator from Milford noted how regional cooperation was automatically equated with giving up control and power: “When you try to do something with another town . . . something on a regional basis . . . [t]hen all the bad connotations of politics come about because all these people want control. It’s our natural instincts—towns and people hate to give up power.”

To be sure, a few officials did say that increased accountability for regional concerns would make their municipalities better off. Those that perceived increased accountability in this more positive light commented on how it would allow municipalities to “improve . . . health insurance, schools, water and electricity infrastructure” (Beverly) without having to “plan around an arbitrary line” (Boxborough). Others were hopeful that municipalities have begun to move beyond a parochial attitude. As an official from Everett put it: “Cities were very competitive with each other on every level, from high school sports to going

after grant dollars, doing projects, stealing business from each other. Since we've been here a few things have happened: cities have been very cooperative."

Yet even many of these supporters of regionalism were wary of losing more local power or having the state mandate cooperative arrangements. A counsel for several towns stated: "The towns are better off with more regionalism, but I wouldn't want to see a diminution in local government control of local issues. Local governments as such ought to be more involved in regional concerns." On this point, the perspective of the opponents of regional accountability was not that different from that of its supporters. Most of the negative reactions to regionalism were rooted in a fear that it would lead to more regulation and control on top of already existing state regulations. A respondent from Nahant asserted that there would be a "hue and cry" if the towns were ever told they must "do this and report back" to a regional form of government; it would thrust them back to 1984, creating a feeling of "big brother over them." He said that "towns should have the right not to cooperate if they did not want to." An Essex official similarly expressed his opinion that the town would be worse off if people in a community were told what to do by members of another community: "It is part of their culture and their history that they govern themselves. They don't want somebody who is not a member of the community making decisions about what they can and cannot do."

A significant number of respondents said that, regardless of what they themselves felt, increased regionalism would not work in Massachusetts. The primary impediment seemed to them to be the state's tradition of home rule. Regional cooperation "is hard to envision here given the tradition of home rule in the New England towns," as one official put it. "There is openness to cooperation within certain parameters, but also a concern for preserving local ideals." An administrator from Carlisle stated simply: "The idea of regional government flies in the face of home rule and local control." Regardless of the problems generated by the parochialism and competitive nature of localities, the general belief seemed to be that home rule and regional cooperation were at odds with one another.

### **Recognizing Inter-local Effects**

A number of local officials we interviewed—sometimes in the very same interview in which they celebrated local independence—recognized the limitations of thinking about home rule in the way just described. They identified the external effects of decision making by their neighbors as a real threat to their own ability to respond to the needs of their residents. Many municipal officials referred to the same example: large-scale commercial developments in neighboring communities that threatened to create traffic congestion in their own. "You might have a major development going in and most of the traffic to access it will come in through the other community," a Winchester official explained. "But the one

where it's located gets all the tax benefits and financial benefits. We often get into disputes about that. [Yet] it usually comes out without any cooperation."

This line of critique was levied against many different developments. A Westwood official disapproved of the proposed site for a regional mall in Norwood along the Westwood/Norwood border because "it had consequences for us but we wouldn't get any revenue from it." Another Westwood official added that, because "[Norwood] is much larger and more commercial . . . they have their own agenda. Their commercial areas often abut our residential areas and they will make decisions on their own without a lot of input from the town of Westwood. We have to keep an eye on things." A respondent from Peabody complained about the North Shore shopping center because "Peabody absorbs all the traffic and aggravation without direct benefit." An Arlington official expressed concerns about Belmont's and Cambridge's development in the Alewife area, stating:

To us it looks like they are putting their developments on the outskirts of their community, which has already and will continue to flood Arlington with traffic. We can talk to them about regional planning and regional cooperation, but they won't talk. There is some property that we want to buy down by Alewife to do open space, whereas they are encouraging development to raise their tax base. So while they're saying that we should put in open space, they keep putting money into their pockets.

In a similar vein, administrators from Littleton and Acton complained about the large facility that Cisco is building in Boxborough. The Littleton official said that their town is turning to the courts to resolve the traffic problems the Cisco facility will bring in. The Acton official explained how, even though the town is upset by this move, it is indicative of the general structure of cooperation in Massachusetts: "Just to show the hypocrisy of the whole thing . . . they'll get a lot of tax revenue. . . [and] we'll bear a lot of the traffic burden. Obviously, we'd like to get them to regionally share the cost of the traffic, but if it was flipped, we wouldn't want to."

An official from Newton noted the same kind of problem—the real impact that extra-local decisions have on his own city—but was equally skeptical that much could be done about it through inter-local efforts. A sense of isolation and independence seemed to underlay his assessment:

It's to the point where you really don't expect it. There are certain things you don't ask because it's so beyond what anyone would do. The idea, for example, that Boston would come to the City of Newton and say, "Please don't develop this tract of land because the traffic is going to have an adverse affect on downtown Boston." We're not going to do that, and I'm sure if we went to a community west of us and said, "Please don't develop this piece of land

because it's going to have a devastating effect on traffic on a couple of roads, or if you develop please consider a development bonus based on your tax revenue." Yeah, right. That's not going to happen either.

## THE STATE'S ROLE IN REGIONALISM

The comments quoted above suggest that an attachment to home rule—understood as local independence or autonomy from other cities and towns in the metropolitan area—impedes regional thinking and coordination. Contrary to what many believe, however, municipal parochialism and competition are not inherent characteristics of Massachusetts life, resistant to all structural, political, or theoretical attempts to dislodge it. Current attitudes towards regionalism and its relationship to home rule are nurtured and reinforced by the legal structure of home rule. As city and town officials themselves know all too well, there is no home rule in Massachusetts in the sense of local independence and autonomy. The state has established a complex mix of grants of and limitations on local power. This mix of powers and disabilities creates the constrained environment within which municipal officials operate, and it plays a major role in shaping municipal officials' judgments about the kind of coordination with other localities that is possible or desirable. The obstacles to regionalism, therefore, are not simply a function of local preferences to go it alone. State-imposed limitations on home rule—like the ones we have already highlighted as well as additional ones we describe below—play a major role in inhibiting inter-municipal cooperative efforts in the Boston area.

### Impacts of State-Induced Competition and Parochialism

The aspects of state law that foster parochialism and inter-local competition may not have been intended to limit inter-local agreements, but they are no less an impediment to them just because they are not readily visible. Consider the fact that, notwithstanding the occasional ambitious exception, inter-local agreements now tend to concern matters that the parties know, right from the start, would benefit their municipality. An administrator from Everett said: "[W]hen the agenda is something that serves every community, the cooperation is high." A spokesperson from Franklin added that the issues most conducive to cooperative arrangements were "things that are less political, where there's not a lot of risk." This kind of aversion to risk is, of course, a quite common disposition in both individuals and governments. But one reason for this cautious attitude is the fact that localities are so constrained in their powers. In this way, the state's limits on local power contribute to, rather than diminish, local parochialism and inter-local competition. They encourage municipalities to guard the limited power that they now possess from encroachment by other municipalities.

As we have seen, even though most municipalities are aware that the exercise of unrestrained land use powers by the region's municipalities undermines

their own land use plans, they are usually adamant about preserving their ability to exercise the powers they have and dismissive of the idea that land use decisions could be made in concert. They regard home rule as the ability to protect their own capacity to impose external effects on other communities even if it means that others are allowed to impose external effects on them. A change in the legal structure that threatened local discretion to act in this way would be of concern precisely because it might threaten a current competitive advantage while leaving little room for local initiative. Even though there is a risk of coming out behind, there is felt to be some security in knowing the terms of battle and the scope of power (limited though it may be) that these terms permit localities to exercise.

Constraints on municipal revenue-raising and expenditures are an example of state-imposed restrictions that make local officials averse to entering into inter-local arrangements that might diminish their already limited power. Administrators tend to guard their revenues against the possibility of expropriation or reallocation knowing that they lack the power to raise revenue to make up for budget shortfalls. They are equally reluctant to consider cooperative arrangements involving expenditures because of the lingering risk that they may not come out ahead in the end or that they will be seen by voters to have been snookered by a competitor. So deep is the fear of improving the financial position of a neighbor, and thus undermining their own competitive standing, that some officials expressed concern that municipal judgments about benefits were determined by comparing a municipality's own benefits with those of the other participating municipalities rather than considering whether it was benefiting when measured against its previous, non-cooperating, position. In other words, municipalities were not inclined to engage in cooperative efforts if they perceived the other municipality was getting more out of the arrangement, even if they stood to benefit themselves. A Hamilton official said that the town is considering whether it should attempt to regionalize services. He called the situation a "hot issue" and noted that it "is controversial because there is a sense that one town may benefit more than others . . . . We are always working at balancing these perceptions. But we realize that if everyone is counting beans like that, then the only alternative is that both towns pay more."

### **How State Law Limits Inter-local Cooperation**

Local parochialism and competition—and the aspects of state law that encourage such attitudes and behavior—play a large role in creating an environment in which few municipal officials believe that thinking regionally has taken hold. But so, too, do state-imposed limits that more directly constrain the exercise of local experimentation aimed at cooperation.

To be sure, the state does permit the kind of small-scale coordination between clusters, or pairs, of municipalities within the region that so many of

those we interviewed held out as a model. The state has passed enabling legislation that allows municipalities to form inter-municipal organizations that facilitate the planning and operations of various services, and it has outlined a model structure within which these cooperative efforts may be realized. Municipalities may establish, among other institutions, regional water and sewer authorities, regional school districts, regional police and fire districts, regional transit authorities, and regional charter commissions for establishing regional councils of government.<sup>3</sup> A number of municipalities in the region reported that they take advantage of this opportunity, and many of them have experienced entry into such agreements as a way of asserting local control.

Among the most successful and uncontroversial cooperative arrangements that now exist in the region have been those aimed at saving money. "Where money is concerned," according to a Swampscott official, "there is always cooperation." Several municipalities, for example, participate in joint procurement arrangements. These arrangements allow municipalities to pool their resources and buying power in order to purchase goods or services at reduced costs. Almost all the municipal officials we interviewed agreed that this was the one area that has produced the most cooperation among localities. A respondent from Middleton, whose town participates in the north shore consortium and cooperative purchasing efforts, notes that "economies of scale are much greater if [municipalities] work together." These joint purchasing arrangements range from office supplies to health insurance, and they provide benefits without compromising local autonomy on other matters.

On occasion, inter-local contracting authority is also used to address seemingly intractable conflicts, such as the recurrent disputes over land use development by neighboring communities. Malden has been successful in using an inter-local agreement to coordinate a development project with other municipalities right from the start. "Telecom City," according to a Malden official, "is an example. The project involves Malden, Medford, and Everett. We have 200 acres of land for development, and we are hoping to develop those acres into a telecommunications center to create jobs. There are 100 acres in Everett, 50 in Malden, and 50 in Medford."<sup>4</sup>

There are, however, important limits on the kinds of agreements that localities are empowered to reach under their current state-granted authority. The agreements often require the approval of a state agency, and there are state-imposed limitations on how much municipal power these voluntarily formed sub-regional organizations can exercise. The agreement that resulted in the Telecom City venture, for example, was made only after the three cities filed home rule petitions obtaining power that they otherwise would have lacked. Several officials noted that state law sometimes makes addressing regional problems through voluntary and cooperative arrangements surprisingly difficult. "Things would be made better off . . . if it was made easier to regionalize in cases where cities and

towns wish to regionalize. Currently such efforts are very difficult due to things like civil service laws, inequality of the school building assistance program, certain environmental laws, and other state mandates," an official from Saugus remarked. "If obstacles to regionalization were removed, communities would do so on their own. State government needs to get out of the way sometimes. Sometimes government should work from the bottom up rather than top-down."

One obstacle that the state places in the way of inter-local agreements is the requirement that, especially when towns are involved, a legal relationship between municipalities must be subject to higher degrees of bureaucratic oversight than contractual relationships with the private sector. A Weston official said that a town could make a contract with a private entity without specific town meeting approval as long as adequate funds have been appropriated. But, in order to establish a contractual relationship with other municipalities, towns must wait until approval has been granted at the next town meeting even if the contract was for a negligible monetary sum. The official described a time when he was working for the town of Needham. It had received a wood-grinder, worth a quarter of a million dollars, from the Department of Environmental Protection to be shared with the communities in the area. Needham wanted to establish a contractual relationship to allow the surrounding thirteen municipalities to rent the wood-grinder whenever they needed it for \$5,000 a year. Because this required an inter-municipal contract, it had to wait until all thirteen communities had their next town meeting to approve this arrangement. After that, the arrangement was further delayed because Needham had to get special legislation from the state to establish a revolving fund so the money paid for the machine could be kept separate and used only for its servicing and maintenance. Although the agreement was finally put into place, the wood-grinder sat in Needham during this entire process and only Needham was able to use it. Had this piece of equipment belonged to a private company, the procedural limitations would not have been an issue.

Even establishing regional cooperation among municipalities for emergency services can be difficult. Although some officials were content with the agreements they had with neighboring municipalities requiring the sharing of emergency equipment and personnel, others noted that regional police and fire districts, regional dispatch systems, and the sharing of certain large-scale equipment are resisted by many municipalities. Officials from Medfield and Wakefield spoke specifically of the lack of cooperation on efforts to establish regional dispatch systems and regional police and fire departments. An official from Burlington said, "every town holds its own fire department 'sacrosanct.'" A spokesman for Boxborough told us that only one building in town required a five-story fire truck and, therefore, that sharing the truck with the town next door "seem[ed] like an obvious situation where we should cooperate." That

town had such a truck, and Boxborough didn't, yet the arrangement never worked out. An official from Concord said that it seems "every town has a \$700,000 ladder truck because we can't share. This is horribly inefficient." A representative from Weston gave a detailed account of how the town's efforts at establishing a regional dispatch system fared:

[A] group of us got together and said this is a good chance to look at the way we dispatch our public safety services. We looked at combining fire and police dispatch, and civilian dispatch. And based on a model we'd seen in the Midwest, we said, "Why do all these small towns need to have their own dispatcher? Could we have regional dispatchers? Could Needham and Sherborn and Dover share, so all the calls would go to a regional dispatcher?" . . . Well, we worked on this for a year and a half, and in the end, the only communities that were left were Needham and Natick, who were willing to do it. To chiefs—for whatever reason, good or bad . . . the thought of giving up control of something like dispatching just panicked them. You would've thought we were attacking Mother Teresa. So one by one the communities dropped out.

As a number of respondents noted, there are personnel reasons—such as the desire of a long-serving fire official to become chief of his own department—that make such agreements difficult. Basic notions of municipal pride play a role as well. Yet state law also creates disincentives for forging such arrangements. "We were faced with the need to build a police and fire station, and it seemed like the right moment to reach out to other towns," a Hamilton official told us. "We had wooed Wenham on going joint on fire service. In fact, no other community around us wanted to regionalize with us on this issue because under the Mass General Law, a multi-town fire district results in financial dealings being less under the direct control of local town governments than if the towns had their own fire departments."

Other respondents pointed to the role that the Massachusetts Bay Transit Authority (MBTA) plays in frustrating inter-local transportation agreements. An official from Bedford explained that his town would like to establish a Route 128 corridor transportation system with other towns in the area "but right now everything is controlled by the MBTA, which is Boston-centric and basically operates the system as one big commuting system getting people into and out of Boston." He said that he had thought about the towns setting up a system on their own to shuttle people from town center to town center, but "the towns can't pay for it themselves because there's nowhere to get the money." A similar complaint was voiced by a respondent from Norfolk, who contended that the obstacle to such an inter-town transportation system was not simply a lack of funds but a lack of legal authority. "Norfolk doesn't want to build lots of roads

and follow the '128 model' of dealing with development. They want to institute regional bus service to the commuter rail and perhaps in between suburbs to maintain the semi-rural identity. But the MBTA and the state prohibit this."

To some extent, the complaints voiced above underscore the complexity of thinking like a region. State laws that enable communities to establish regional school districts and similar regional institutions increase inter-local cooperation, but they simultaneously fragment the region as a whole. It is no surprise that so many of our respondents instinctively conceived of the "region" as the territory encompassing their contiguous neighbors. State law deems such small-scale areas "regions" for purposes of designating school districts, fire districts, and the like. This idea of the region is problematic, however, because job markets, housing markets, and commuting patterns actually encompass the larger area in which the 101 towns we examined are located. The more that small clusters of communities within the Boston region can design their own transportation networks, the more that a broader, region-wide transportation plan may be thwarted.

### **The Lack of State Mechanisms to Foster Regional Ties**

It's not just that the state affirmatively creates a structure of home rule that creates incentives for localities to hunker down and look upon joint ventures as threatening propositions. Nor is it just that the state places limits on local powers to enter into inter-local agreements that make them unduly burdensome or even beyond local authority. Although the state is intimately involved with "local" concerns when it seeks to check selfish exercises of municipal power, it spends comparatively little effort in creating mechanisms through which localities might discover and assess the benefits of cooperating with one another. Aside from provisions authorizing small-scale cooperation that may arise spontaneously (discussed below), the state has not used its intervention into municipal affairs to create an atmosphere in which inter-local agreements might arise, let alone one in which a broader regional identification might take hold. Quite the contrary: the home rule petition process and state supervision of municipal entities tend to encourage vertical interactions with the state at the expense of horizontal relationships among municipalities.

Most town officials described the various organizations and associations to which they belonged, such as the Massachusetts Municipal Association or the Metropolitan Mayors Coalition, and they described them as important forums where regional issues were addressed. Weekly, biweekly, or monthly meetings of municipal officials break up the often isolated nature of municipal governance and exposed local officials to the experiences and issues facing other communities. Some who agreed that there was a lot of communication between individual communities felt, however, that there was too much "talk" and too little "action" to count as cooperation. Other than this structure for communication,

a number of municipal officials acknowledged, there is little formal structure for cooperation among municipalities without relying on the state. The state has established one potential vehicle for such cooperation, the Metropolitan Area Planning Council. Established in 1963, the MAPC is comprised of representatives of 101 cities and towns in the metropolitan area. The MAPC has limited formal powers and none of our respondents identified it as providing the kind of structure that is needed. A Salem official said that “there needs to be a structure for cooperation and taking down of borders, at least around certain issues like schools, transportation, and joint purchasing.” An official from Medway agreed, concluding that regional cooperation is low not because localities don’t want it but because there is not a mechanism for enabling it. “There’s just not any structure for towns to cooperate with one another on a formal basis,” he said. “If more regionalization was encouraged by the state, it might be good.”

In part for this reason, many municipalities now attempt to address their problems with their neighbors by seeking state intervention into their neighbors’ affairs, or threatening to assert their own power in harmful ways, instead of finding common ground for collective action. A Boston official recounted how the city proposed a bill in the state legislature to assess penalties against municipalities that have not complied with the affordable housing requirements of Chapter 40B. Although the city was aware that the proposed bill would be rejected by the legislature, city officials thought that it would “tickle” the suburbs, encouraging them to contribute more effort on the problem of affordable housing. The concern of Boston about the need to provide more affordable housing—and the similar concern of the other communities who provide the majority of affordable housing in the region—is reasonable. Yet most municipalities, like Boston, see these problems as issues that can only be resolved by the state. They rarely consider the possibility that other municipalities may be able or willing to cooperate in resolving the issues without having to lobby the state for more statutory mandates. It’s more likely that they would employ threats to compel other localities to come to the negotiating table. An official from Malden jokingly described how the city once threatened to turn all the roads leading in and out of a bordering development into one-way streets all moving in the same direction in order to compel its neighbor to discuss the development with them.

Some municipalities have been successful in rallying coalitions of support, such as the collection of communities that are working together to oppose the runway expansion at Logan International Airport. For the most part, however, regional support and cooperative efforts aimed at addressing long-standing problems have been ignored in favor of preserving the status quo or turning towards the state. According to a Wilmington official, it is “more important[], and realistic[] . . . [for] towns and cities . . . to improve their relationship with the state and establish a dialogue so that they have more of a voice in state decisions.”

## Options for Regionalism and Home Rule

To this point, we have described the state of home rule in Massachusetts as a matter of law and practice. We have found that local officials in the region believe they lack many of the legal powers they need. We have also found that, as much as local officials desire greater power, they recognize that there are substantial costs to pursuing a go-it-alone approach. Their own ability to meet the needs of their residents is powerfully affected by actions that occur beyond their borders. Finally, we have found that very few municipalities favor addressing these inter-local pressures through a new layer of governmental power at the regional level.

Rather than viewing this complex picture as a hopeless jumble of contradictions, we are inclined to see it as the basis for trying a new strategy for promoting regionalism. The fact that the state places so many limits on local power—and that these limits are experienced as significant by so many of the officials with whom we spoke—suggests to us that innovative approaches might be possible that would call into question the supposed conflict between home rule and regionalism. It is important to recognize, however, that any regional approach—no matter how innovative—depends on the state's willingness to assume an affirmative role to bring it about. Some of the local officials we interviewed asserted that regionalization would happen if only the state would “get out of the way.” But it is not clear to us what it would mean for the state to “get out of the way.” Local parochialism and inter-local competitiveness are realities. Indeed, the state, as the source of local power, has created the legal structure that fosters this parochialism and inter-local competitiveness. The question, then, cannot be what localities can do without the state. The question must be: how should the state go about promoting greater intra-regional coordination?

One possibility would be for the state to mandate regionalism from above. The Home Rule Amendment empowers the state to do just that:

The general court shall have the power . . . to erect and constitute metropolitan and regional entities, embracing any two or more cities or towns, or established with other than existing city and town boundaries, for any general or special public purpose or purposes, and to grant to these entities such powers, privileges and immunities as the general court shall deem necessary or expedient for the regulation and government thereof.<sup>5</sup>

This solution strikes us as unrealistic and unproductive. The virtually uniformly hostile responses that such an idea provoked among our respondents underscores the resistance that it would face. This is the type of regionalism that can accurately be described as one more state mandate—the type of regionalism that inspired so many officials to embrace local independence and autonomy as an alternative ideal. Another reason to be skeptical about this type of regionalism is that centralization—in the form of state power—has too often been the source

of, rather than a solution to, the problems generated by the coexistence of so many cities and towns in the Boston metropolitan area.

Another possibility would be to provide state aid to encourage local governments to act on a more regional basis. Such a solution is also problematic. It would require substantial outlays of new money that is not now available and is unlikely to be available anytime soon. Besides, existing state grants-in-aid already have a distorting effect on municipal governments, leading them to devise programs to obtain sorely needed revenue from the state when alternative policies might be better. And, of course, if the regionalism string were attached to existing dollars, few municipalities would experience the state as offering them a meaningful choice. The distinction between a grant-with-strings and an outright mandate is not one that impressed many of the officials we interviewed.

A better alternative, we suggest, is to promote regionalism by responding seriously to the widespread sentiment that the state has unduly limited home rule. The idea would be for the state to enhance local power—and relax existing limitations on that power—as a carrot to induce greater regionalism. In this way, the state would help overcome the sense of opposition between home rule and regionalism that so many municipal officials we interviewed took as a given. To make this proposal more concrete, we offer some examples from the three substantive areas discussed in earlier sections of this report: revenues, land use, and education. What we offer here is not a menu for legislative reform. Our goal in presenting these ideas is much more limited: our proposals are designed to demonstrate that increasing local power and regionalism can go hand-in-hand.

Virtually every municipal official we interviewed emphasized the lack of local power with respect to fiscal matters. The limits on municipal power range from the Home Rule Amendment's exclusion of the power to tax to Proposition 2½'s constraints on property taxing authority to the detailed state supervision that occurs at every stage of the local revenue-raising process. These constraints are made even more onerous by the state's substantial role in mandating local spending. The result, as we have seen, is a disconnect between revenues and expenditures that prevents local budgeting from being an exercise in expressing municipal will. Municipal officials also recognized that the state's limits on taxation, and its mandates to spend, are not the only constraints on local fiscal control. They were quick to point out that their city's or town's fiscal health was in large part determined by its success in battling neighbors for commercial and residential development. The wealth of the residents a municipality attracts or loses—and the costs that accompany either move—plays a large role in determining municipal fiscal capacity.

To address these two limitations on local fiscal authority, the state must do more than simply loosen restrictions on local revenue-raising power. It needs to expand local control in a way that will not exacerbate the inter-local battle for taxable property. One way to do this would be to tie grants of greater local tax

authority to regionalization. The possibilities are numerous. The state could grant a group of localities a limited power to impose a sales tax as long as they agreed to share the new revenue. Alternatively, the state could offer to reimburse localities (in whole or in part) for the lost revenue generated by state-owned, tax-exempt property as long as the municipalities collectively submitted to the state a plan detailing where such new state properties should be located. In this way, the region's cities would have an incentive to formulate joint plans about the location of new state buildings rather than to try to exclude or court the property based on a self-interested assessment of whether it would attract more net revenue. Yet another example would involve neither raising locally imposed taxes nor increasing state payments. The state could enhance municipal authority to offer tax abatements to attract development as long as the locality agreed to share a portion of the generated revenue with neighboring localities. Any of these ideas—and many more like them—would increase the incentives for coordination within the region without increasing state control over local power. Regionalism would become a byproduct of state efforts to enhance local power rather than to limit it.

Unlike the situation with regard to revenue, municipalities have significant control over land use and want to keep it. The officials we interviewed repeatedly pointed to zoning as an area in which the state had ceded significant discretion. Yet, as these respondents also noted, the state imposes a broad range of limitations on the land use powers that localities may assert. Many of these limitations are included in the state statutes that delegate the zoning power. One particularly noteworthy example is the generous granting of vested rights that state law now affords property owners. The vested rights provisions of Chapter 40A make changes in local land use planning difficult and, sometimes, even counterproductive. To respond to this problem, the state could relax this requirement in the name of enhancing local home rule. But this solution would not fully respond to the concerns localities have about their land use authority because they are also limited in what they can do by the relative position of their neighbors. Land use choices may be driven by a felt need to win out in the competition for new developments or affected by development policies pursued across the border.

In order to think about home rule and regionalism as complements, the state could address both types of limitations on local land use powers without exacerbating inter-local battles. It could relax the early vesting rules only for cities and towns that enter into regional land use planning agreements. In this way, municipal power to manage growth would increase as cities and towns agreed to work together to devise a greater-than-local land use strategy. Cooperation would make planning strategies possible that now are effectively foreclosed.

Another possible state land use approach would deal with current affordable housing regulation. There has been much talk in recent months of regionalizing Chapter 40B's affordable housing requirement. Under this approach, regions

rather than individual towns would be responsible for meeting the 10 percent requirement that state law establishes. Some respondents cited this potential change as an example of why regionalism worries them. They explained that their town had already taken efforts to meet the 10 percent goal while neighboring communities had not. If they were lumped together into a region for purposes of Chapter 40B, they feared, they would be denied the benefits that their prior efforts merited. Whether or not regionalizing Chapter 40B is a good idea, too little attention has been given in the discussion about reforming Chapter 40B to the need to expand local power to promote and preserve affordable housing. As our report shows, the general grant of home rule power leaves local governments without an adequate set of tools for making affordable housing available to their residents. Part of what the towns lack under the current Chapter 40B regime, in other words, is the legal authority to promote its purposes. Expanding home rule power to adopt inclusionary zoning ordinances or other means of stimulating the building of affordable housing can promote the regional goal of more equitable distribution of affordable housing.

Our final example concerns education. As we have noted, regional school districts can be established under Massachusetts law. They can be created by the agreement of two or more municipalities upon the recommendation of a regional school district planning board. The schools are then run by a regional school committee that exercises the power of a local school committee. Regional school districts often save municipalities money, but establishing them is difficult. In explaining the obstacles to their creation, municipal officials focused on the disconnect between the municipalities and the regional schools. Echoing the criticism that other localities had of school committees generally, they complained that the involvement of municipalities participating in a regional school district was limited to approving the budget and paying their portion of the bill. A Pembroke official, whose town recently withdrew from a regional school district, stated that “when school systems are regional, the town merely gets a bill and pays it. When the system is taken local, as Pembroke is doing, [we] will be more cognizant of the affairs of the school and be more proactive. Local involvement will be more than footing a state-mandated bill.” Conflicts also arise over the formula used to assess the participating localities. Tensions particularly arise if one municipality—or even worse, a coalition of municipalities—perceives another municipality as getting a better deal because of its class-based character.

Perhaps municipal administrators are more inclined to participate in the affairs of their own local school committee. Yet there is little evidence that they actually are more involved with local school committees than with regional school committees. As we have pointed out, legally and structurally, local school committees and regional school committees are both kept distant from municipal governments. It is possible, then, that the feared disconnect between municipalities and regional school districts has less to do with the organization of regional

school districts than with the perception of a loss of “home rule” when schools are marked off as “regional” as opposed to “local.” To make regional school districts more attractive, municipal governments could be given a greater role over regional schools than they now possess over local schools. They could be given such a greater role in two ways. Their power to formulate school policy could be increased. And they could also have more influence on the regional school budget than individual cities and towns now have over local school budgets.

All of the ideas just presented—on revenue, land-use and education—envision permitting regional agreements signed by only a few municipalities, rather than covering the region as a whole. Given the widespread current preference for these sub-regions as the definition of the relevant region, this may well be a way for any new form of regionalism to begin in the Boston area. But, as we have already noted, this kind of sub-regional thinking threatens to fracture the region as a whole at the very time that it creates greater-than-local approaches to common problems. To counter this tendency, any of the proposals just made could be structured so that greater authority would be transferred to municipalities depending on the number of cities and towns willing to enter into the regional undertaking. With each new city or town added, the control of the municipal governments could be increased relative to the state. Once again, this way of inducing regionalism would expand home rule power rather than reduce it.

Even if implemented, none of the proposals just sketched would fully address any, let alone all, of the problems facing the Boston region set forth at the outset of this report. The problems of housing affordability, sprawl, traffic congestion, and environmental degradation that stem from the current way localities exercise their power cannot easily be overcome. Moreover, as we have already emphasized, we have not made these suggestions in the expectation that they would become a concrete agenda for reform. We sought instead to propose a number of ideas that might enable readers to revise the standard notion that regionalism of necessity erodes home rule. All of the proposals—and many more like them—would restructure home rule in Massachusetts in a way that empowered localities rather than weakened them. Indeed, they would remove limits on local power that now restrict Massachusetts municipalities more than those of other states. At the same time, they would create incentives for the region’s municipalities to see the benefits of thinking regionally beyond the easy, non-political matters that now bring them together. Over time, this new conception of regionalism—in whatever concrete form it is adopted—might begin to instill a regional sensibility that at present does not exist.

Proposals such as ours do not seek to resurrect home rule in the sense of “local autonomy.” To our way of thinking, that is what makes them attractive. The “local autonomy” definition of home rule now stifles the discussion of regionalism. And it is the principal justification for the kinds of state control over local decision making outlined in this report. As this report suggests, “home

rule” does not now enable the cities and towns of Massachusetts to exercise local autonomy. Instead, home rule is a complex, deeply contested concept. Our hope is that this report will help readers think creatively about what home rule is and what they want it to be.