

# **Dispelling the Myth of Home Rule**

*Local Power in Greater Boston*

**David J. Barron**

**Gerald E. Frug**

**Rick T. Su**

**Rappaport Institute for Greater Boston  
Cambridge, Massachusetts**

# Introduction

---

**S**prawl, traffic congestion, environmental degradation, school inequality, racial segregation, the radical difference between prosperous suburbs and declining suburbs, the spatial division between rich and poor—the problems of American metropolitan areas are as familiar as they are serious. What can be done about them? Many observers, including most urban scholars, agree that any solution to these kinds of problems must be regional in scope. But is any kind of regional organization possible—not just a regional government but *any* kind of regional organization? The standard answer to this question is “no.” And the standard justification for this answer is that the attachment to local autonomy in America is too strong for central cities and suburbs to participate together in a regional approach to urban problems. Those who talk about this attachment to local autonomy usually imagine that central cities and suburbs have local autonomy. And the term they use for this kind of local power is “home rule.”

Over the last two years, we have investigated whether the cities and towns within the Boston metropolitan region have “home rule” in this “local autonomy” sense of the term. We began our investigation by defining the Boston region in the same way that the Boston Metropolitan Planning Organization defines it, a definition that includes 101 cities and towns within the Boston metropolitan area. (A map of the region as so defined is reproduced in Appendix A.) Then, we asked fourteen Harvard Law School students (the names of the students are listed in Appendix B) to undertake two tasks. The first was to explore the way the legal system currently defines home rule in Massachusetts. The second was to explore how city and town officials understand the meaning of the same term as they undertake their day-to-day responsibilities. To accomplish this second task, in the spring of 2002 the fourteen students interviewed mayors, town managers, and other key officials in every city and town that responded to our request for an interview. The result produced interviews with officials from a majority—although not all—of the 101 cities and towns. (A list of the municipalities that agreed to speak with us is set forth as Appendix C). This report summarizes the results of these two efforts.

Our findings reveal four major things about the structure of home rule in the Boston region. First, they show that the state constitutional protection for home rule does not provide the cities and towns of the Boston metropolitan region with anything like the “local autonomy” that critics usually cite as the impediment to regional solutions to regional problems. Current state law contains substantial

limits on local powers. It denies local governments the independent power to tax or borrow, it prevents localities from making decisions in important policy areas, and it provides municipalities with virtually no protection against conflicting state policy. The officials we interviewed experience these kinds of limits on a day-to-day basis. Although Massachusetts is often portrayed as having a strong home rule tradition, respondents for nearly half of the cities and towns that we surveyed (45 percent) rejected that description. Several used quite strong terms in doing so, describing home rule in the state as an “illusion” (Franklin) or “overblown” (Millis), or depicting the legal structure as imposing a “very controlled atmosphere” (Holliston). A number argued that, in practice, the presumption in Massachusetts is that a locality cannot act unless it has been expressly authorized to do so by the state. This would seem to be the very opposite of the presumption one would expect to find in a state committed to home rule. Still others suggested that Massachusetts gives noticeably less authority to its towns and cities than other states with which they were familiar. Even respondents who thought that the state did provide an important degree of home rule often agreed that state law gives cities and towns too few resources to deal with costly state mandates and too little authority to deal with many of the problems they face in their communities. The survey also revealed that cities and towns are constrained by more than state law limits on their powers to act. Respondents frequently noted that they were vulnerable to the adverse impact of actions taken by neighboring cities and towns and that these actions, like those of the state, are outside of their control.

Second, despite this finding, the vast majority of local officials we interviewed regularly expressed deep attachment to home rule, and many were averse to greater regionalization for fear that it would strip their communities of home rule. The same officials who elaborated their city or town’s inability to make its own decisions on matters of concern to its citizens would often, at the end, vigorously defend the importance of home rule in response to questions about the potential benefits of greater regionalism. What “home rule” might mean when defended in this way, given the recognition of the constraints on local power under home rule that so many local officials identified, will be explored below in greater depth. Suffice it to say at this point that it seems to us to represent a defense of specific state-granted entitlements, a desire to maintain the distinctive character associated with the state’s different localities, and a longing for more local power rather than an overall description of the autonomy that the Boston metropolitan area’s local governments actually enjoy. Indeed, some respondents suggested that the current legal structure protects home rule chiefly in the sense that it facilitates a kind of parochialism that frustrates inter-local cooperation rather than in the sense of empowering localities to address their own problems. As one official put it: “[t]here’s a fierce belief that you should be self-contained.” (Acton). As another explained, “There’s not home rule in the sense of [power

being granted by the Home Rule Amendment] but in the sense that each political entity has its own fiefdom, and heaven help you if you happen to cross the borders” (Ashland). Each of these officials emphasized the real limits on local power that state law imposes even as they testified to the strength of the local attachment to home rule in this more general sense.

Third, this report demonstrates that the state’s oversight of cities and towns is often structured without regional objectives in mind, despite the fact that the state is the only entity in a position to encourage regional planning. Even when the state regulates in what it considers the best interest of the region, it tends to make decisions on its own, with the affected cities and towns having little input in the process. State interactions with localities are frequent, but they usually take the form of individual transactions between the state and a specific city or town, thereby reinforcing the political isolation of municipal governments from one another. To be sure, many local officials described their experience with the state legislature or state administrative agencies as positive. A clear majority of the respondents characterized the role of the state as “basically helpful.” Nevertheless, a substantial minority (13 municipalities) characterized the state’s role as “basically harmful.” Respondents from a number of municipalities also observed that the state affirmatively erects obstacles to inter-local cooperation. For many local officials, then, the reliance on state authority has done little to promote what they conceive of as the regional interest.

Finally—perhaps in part for the reasons just described—virtually no respondents conceived of the Boston metropolitan region as having a common identity. To the extent that respondents looked upon regionalization favorably—as some did—they tended to identify with sub-regions within the region, areas that often encompassed no more than the several towns or cities adjacent to their own. Several respondents remarked upon how little they had “in common” with many of the municipalities in the region. Within the smaller context of these sub-regions, a slight majority of respondents characterized inter-local cooperation as “high,” a substantial number characterized it as “low,” and the remainder termed the level of inter-local cooperation as “medium.” Not surprisingly, the subject about which cooperation on this sub-regional scale was termed highest concerned joint purchasing agreements. By contrast, topics such as traffic congestion, affordable housing, and land use planning—topics that produce the familiar regional problems set forth at the outset—were often singled out as evidencing the least amount of inter-local cooperation or as posing the greatest threat to the municipality if a regional solution were pursued.

Throughout the discussion that follows, this report highlights the limitations on the exercise of local power that the current home rule structure imposes on the region’s municipalities. The reason for this emphasis is not to suggest that the state should have a significantly reduced role in influencing or determining the

scope of local power. A number of officials who described the state's role as pervasive defended many of its interventions as important, even necessary. Others described the state as supplying localities with a significant amount of local discretion and room to maneuver. The reason for our focus is to call into question an oft-invoked sense that Massachusetts recognizes an unusually strong degree of home rule, a degree of home rule that is so strong that efforts to promote regional problem solving are peculiarly unlikely to succeed here. By challenging and complicating just what "home rule" means in Massachusetts, we hope the report will spur further thinking about how a different way of empowering the cities and towns of the Boston metropolitan area might address the problems affecting the region while, at the same time, enabling the region's municipalities to pursue their own local interests more effectively than is now possible. There may well be areas in which greater state intervention may be needed to promote region-wide goals. But numerous constraints on local discretion also need to be relaxed. In fact, we argue, the difficulties in overcoming the many problems that confront the Boston metropolitan region may stem less from the state's respect for home rule than from the particular ways in which state law now imposes limits on local action. Removing these limits in ways that would induce the region's cities and towns to work together strikes us as an important but underutilized means by which the state could promote regionalism without further curbing home rule.

The report is divided into three sections. The first section describes the legal structure of home rule in Massachusetts and how local officials perceive its impact on their exercise of local power. The second analyzes the effect of home rule on three specific areas of municipal governance: revenue and expenditures, land use, and education. The third addresses the implications of home rule for regionalism in the Boston metropolitan area.