2.1

Market Data Inventory

Introduction

This *Market Data Inventory* task and the following *Market Analysis* task present an evaluation of the residential housing market in the Core Communities and the Devens region by analyzing supply and demand conditions. The objective of these tasks is to estimate the potential future demand for housing at Devens. This information is meant to support decisions made by the Devens Disposition Executive Board regarding possible changes to the development plans for the property and the mechanism and timing of the disposition.

First, supply characteristics are reviewed including trends in housing development between 1990 and 2004. Permit data and projects in the approval process are also identified as well as trends in market pricing. The supply of housing includes existing units and new construction of both ownership units (single family houses and condominiums) and rental units (primarily apartments). The supply of housing increases in response to new demand through the construction of new units. New construction is constrained by a variety of factors including availability of land, local zoning regulations and the permitting process and availability of financing.

Second, the demand for housing, (described in detail in the following Task 2.2 *Market Analysis*), in the market areas is estimated based on residential sales activity and on Census data regarding population (household) growth and the length of time households occupy their dwelling units. These data are also examined relative to household income levels to estimate demand at different price points, based on generally accepted relationships between housing costs and income.

The demand for housing is generated by population growth – increases in the number of people seeking housing (household formation) as well as by in-migration for other areas – and by movement within the existing housing stock (turnover). Existing households move to a new dwelling for a variety of reasons – they have children and need more space, their children leave and they need less space (downsizing), incomes increase and they seek larger or higher quality housing, or for investment purposes. The current low interest rates for mortgages coupled with rapidly rising prices has accounted for a large amount of market activity, according to real estate brokers. By reducing the cost of ownership, homeowners can purchase more house (bigger, better) while reinvesting the equity that had accumulated in their previous dwelling. In-migration is directly related to employment levels. As the number of jobs grow, employees from outside the local market area move in and create demand for housing. Access to transportation or recreational and quality-of-life amenities (such as waterfront housing) also promotes in-migration to a particular area.

The demand for rental housing is dependent on a variety of factors including the age and income of the population. Younger households who change housing frequently as well as lower income households are typically attracted to apartments due to the relatively low cost (compared to purchasing a house which usually requires a substantial down payment) or to the flexibility and amenities that may be included. Turnover of rental units is typically substantially higher than ownership units.

Two market areas were used in this analysis including:

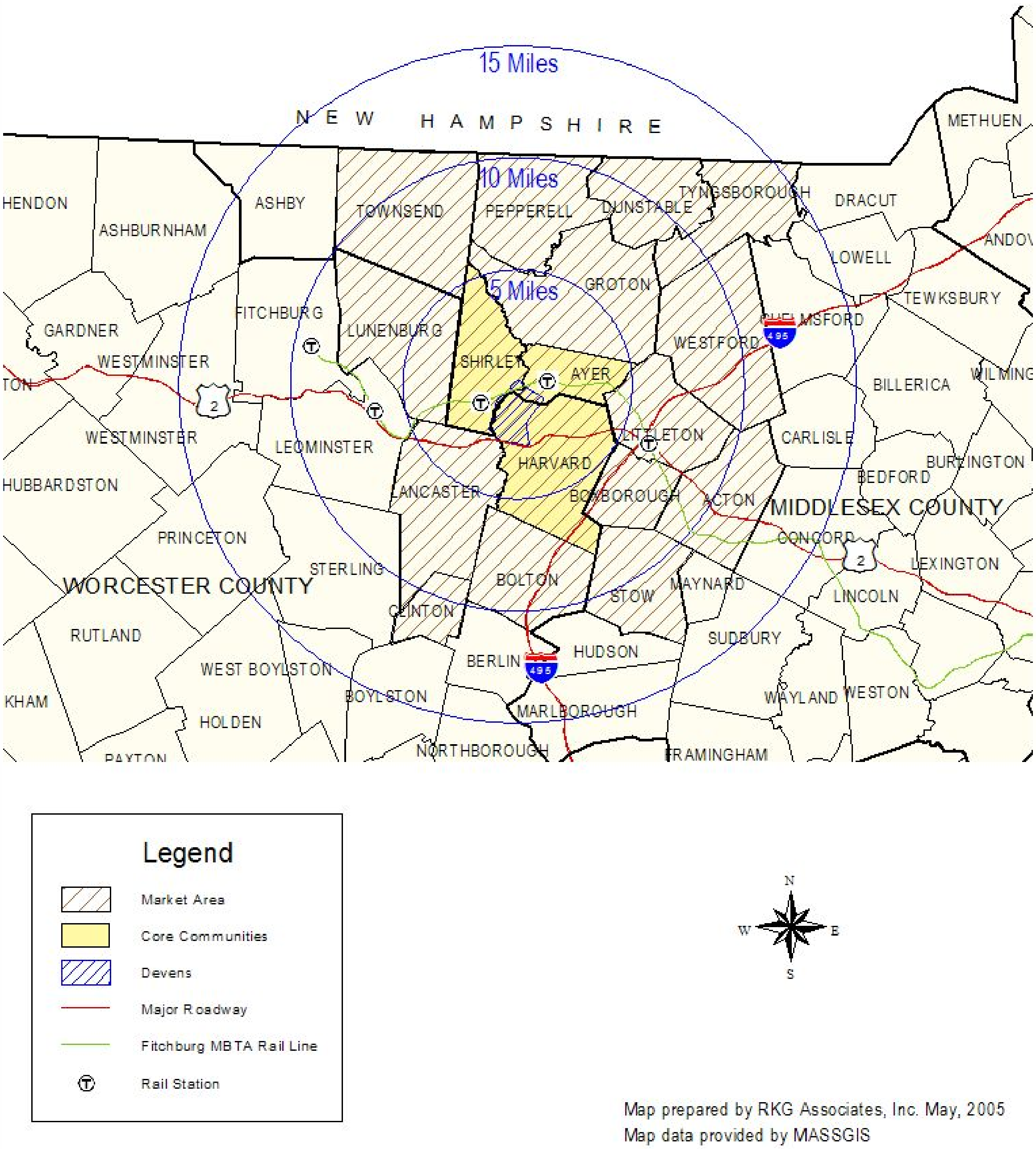
- The Core Communities of Ayer, Harvard and Shirley
- The Devens region, which includes the three Core Communities and 14 other towns within a 10 mile radius[1]

In some instances, conditions in the larger region of Middlesex County are also presented for comparison purposes. Figure 2.1 on the following page illustrates the geographic positions of each of the areas in relation to the other. A 'market area' is defined as one or more communities that exhibit similar economic and social characteristics and within which potential housing consumers, including homebuyers and apartment renters, would typically look for housing. Market areas vary widely according to the criteria that consumers use to compare housing options and may include such factors as cost, distance to employment or public transportation, quality of the schools, availability of social amenities such as parks and recreation facilities or proximity to friends and family members. Increasingly, market areas have gotten much larger, both as a result of increased mobility as well as by the relative scarcity of different types and prices of housing. In particular, as housing prices have risen (faster than income levels), some households have been forced to look farther away from the more urban areas to find suitable living quarters. Affordability has become a primary defining characteristic of housing markets, along with the other criteria mentioned above.

The market area for housing at Devens relates to the surrounding Core Communities, which offer a wide variety of housing choices.

[1] The Devens region includes Acton, Ayer, Bolton, Boxborough; Clinton; Dunstable; Groton; Harvard; Lancaster; Littleton; Lunenburg; Pepperell; Shirley; Stow; Townsend; Tyngsborough and Westford. All are within the 10-mile radius requested by the DDEB in its Request for Proposals. The Cities of Leominster and Fitchburg were excluded from the region, since they are more fully developed and do not reflect the same suburban/rural environment as the other towns in the region. Please refer to Map 1, which illustrates each geography in relation to the others.

Figure 2.1: Core Communities and Devens Market Area



The following bullet points summarize the housing market information for the Core Communities and Devens region as well as provides implications for the future.

- Approximately 86.5% of the new housing starts in the Core Communities were single-family homes, which was similar to the 91.0% in the Devens region. In comparison, only 62.8% of the new units constructed in Middlesex County were single-family homes.

- According to municipal representatives, over 2,160 units have been approved and either developed or are being developed in the region at 55 major projects, including 542 units in the Core Communities. In addition to what was approved, the Devens region has over 2,760 units that are in the approval process (80% of which are potential ownership units).

- According to a May 2005 inventory of subsidized housing prepared by the Massachusetts Department of Housing and Community Development (MA DHCD), there were 345 Chapter 40B units in the Core Communities, representing 4.6% of the year round housing supply in 2000.

- Most of the owner demand in the Core Communities was from households who could afford housing in excess of $300,000. However, sales data indicated that the supply of housing in excess of $500,000 did not meet that demand, while the supply of housing in the $300,000 to $500,000 range exceeded the demand. In addition, the supply of housing in the $200,000 to $300,000 range was greater than the demand from households that could afford that price level. The annual demand for homes under the $200,000 in the Core Communities level slightly outpaces the supply, based on pricing in 2004.

- On the renter side, the supply of units under the $1,000 per month level exceeds the annual demand, while the supply of units over $1,000 is below annual demand. This finding suggests that more households could afford paying higher rental pricing but not much product is available in the Core Communities in excess of $1,000 or $1,250.

- The total annual demand for housing units in the Core Communities and the Devens region is estimated at 742 and 5,229 units respectively, with approximately 60% to 70% of the demand for ownership units. Nearly all of the demand for rental housing in the local market comes from turnover while approximately 80% of the demand for ownership units is from this source. In the region, approximately 17% of the demand for owner units comes from new household growth.

- Over the next five years, the demand for residential development at Devens could range between 223 and 595 units, and from 894 units and 2,381 units over the next twenty years. To achieve this level of housing activity, it is assumed that Devens would capture a small share (3% to 10%) of the local demand from within the Core Communities along with a very small share (0.5% to 1%) of the regional market demand from both new household formations and from turnover of existing homes. This level of development assumes that housing products that meet the price, tenure and functionality needs of the entire market spectrum are made available at Devens.

Task 2.2 Market Analysis contains a more in-depth discussion and analysis about the future housing demand of the Core Communities and the Devens region summarized above.

Methodology

In order to obtain data and information for this technical memorandum, the following housing supply and demand sources were utilized:

- Demographicsnow.com
- Massachusetts Department of Housing and Community Development
- Municipal planning officials
- Real estate brokers and property managers
- The U.S. Census Bureau
- The U.S. Department of Housing and Urban Development
- Various real estate online search engines
- Warren Group Information Services

Housing Supply Trends

New housing starts in the three Core Communities, based on building permit data between January 2000 and December 2004, totaled 260 housing units, as shown in Table 2-1. Shirley (133) had the highest amount developed during the five-year period while Harvard (48) had the least. [2] Adding this new development to Census 2000 housing figures indicate that the Core Communities had a supply of 7,797 units in 2004.

The Devens region had 3,419 units developed in the last five years, representing 21.1% of the new housing starts in Middlesex County. In comparison, the housing

[2] 2004 permit data for Harvard was not reported by US Census, or for Bolton, Clinton and Lancaster.

supply in the Devens region represented 10.3% of the 2004 housing supply in Middlesex County.

Approximately 86.5% of the new housing starts in the Core Communities were single-family homes, which was similar to the 91.0% in the Devens region. In comparison, 62.8% of the new units constructed in Middlesex County were single-family homes.

Table 2-1
Unit Production from Permit Activity 2000 - 2004 and Housing in 2004

	Ayer	Harvard	Shirley	Core Comm.	Region	Middlesex Co.
Housing Units in 2000	3,154	2,225	2,158	7,537	57,618	576,681
Permit Activity 2000-2004	79	48	133	260	3,419	16,184
Single-Family	44	48	133	225	3,112	10,160
Two-Family	12	0	0	12	52	590
3 to 4 Units	18	0	0	18	100	527
5 Units or more	5	0	0	5	155	4,907
Housing Units in 2004	3,233	2,273	2,291	7,797	61,037	592,865

Source: US Census & RKG Associates, Inc.

Table 2-2 compares the housing development trends of the last five year with two previous five-year periods during the 1990s. As shown, housing development over the last five years in the Core Communities was lower than the two previous periods. This finding was also the same for the region and Middlesex County[3].

Table 2-2
Housing Supply (2004) & Development Trends in Five-Year Periods since 1990

	Ayer	Harvard	Shirley	Core Comm.	Region	Middlesex Co.
Housing Units (2004)	3,233	2,273	2,291	7,797	61,037	592,865
Development Trends						
2000 to 2004	79	48	133	260	3,419	16,184
1995 to 1999	301	111	223	635	5,210	22,144
1990 to 1994	167	97	235	499	4,277	19,494
15-year Total	547	256	591	1,394	12,906	57,822
Annual Average	36	17	39	93	860	3,855
% of Middlesex Co.	0.9%	0.4%	1.0%	2.4%	22.3%	100.0%

Source: US Census & RKG Associates, Inc.

Referring to the previous table, new housing starts averaged 93 units per year in the Core Communities between 1990 and 2004, while housing starts in the region averaged 860 units per year.

[3] The "official" economic recession occurred in late 2001, however, employment levels in New England declined starting in January 2001 through January 2004. Current employment trends are positive although the rate of job growth is somewhat slower than during the 1990s. Because of the cyclical nature of the economy, longer term trends are used to forecast housing market condtions.

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Projects Recently Approved and in the Approval Process

Town planning departments were contacted in each of the communities in the Devens region to obtain an understanding of the unit count of the major projects that were approved since 2000. In addition, planning staff were questioned about projects that are currently in the approval process, which may compete in the future with residential development at Devens, if it is allowed. According to these municipal representatives, over 2,160 units have been approved and either developed or are being developed in the region at 55 major projects, including 542 units in the Core Communities. As shown in Table 2-3, no units were approved at major projects in Harvard, nor were any rental units in the Core Communities.

Table 2-3
Summary of Large Scale [1] Residential Developments Approved Since 2000
Devens Market Area

	Sale Units	Rental Units	Total Units	# Devs.	# 40B Devs.	# Affordable Units	# Age-Restr. Devs.
Ayer	361	0	361	7	0	48	2
Harvard	0	0	0	0	0	0	0
Shirley	181	0	181	8	0	0	1
Region	1,911	299	2,164	55	11	190	14

[1] Condominium and apartment developments of 20 units or more. Single family developments with 5 or more units Source: RKG Associates, Inc. with municipal personnel

Comparing this approval data (542 units) with permit information (260 units) indicate that only 48% of the units approved in the Core Communities have been developed, suggesting an undeveloped supply of 280 units in the Core Communities. The opposite was experienced in the Devens region, as the units approved (2,164 units) were 63% of the permitted units (3,419).

In addition to what was approved, the Devens region has over 2,760 units that are in the approval process, as shown in Table 2-4, and 80% are potential ownership units. There are 195 units in the approval process in the Core Communities, and all these are proposed for ownership.

Table 2-4
Summary of Residential Development [1] Permitting "Pipeline"
Devens Market Area

	Sale Units	Rental Units	Total Units	# Devs.	# 40B Devs.	# Affordable Units	# Age-Restr. Devs.
Ayer	151	0	151	2	1	90	0
Harvard	44	0	44	1	1	11	1
Shirley	0	0	0	0	0	0	0
Region	2,210	556	2,766	42	24	450	11

[1] Condominium and apartment developments of 20 units or more. Single family developments with 5 or more units Source: RKG Associates, Inc. with municipal personnel

Based on historic trends, this potential of 195 units represents a two to four year supply in the Core Communities. The potential 2,800 units in the region equate to a 3 to 4 year supply.

Figure 2.2 (and Appendix 2-1) illustrates the distribution of housing projects by various communities approved over the last three to five years. Figure 2.3 (and Appendix 2-2) then shows the number of units in the approval process within various communities around Devens.

Figure 2.2: Housing Units Approved Since 2000

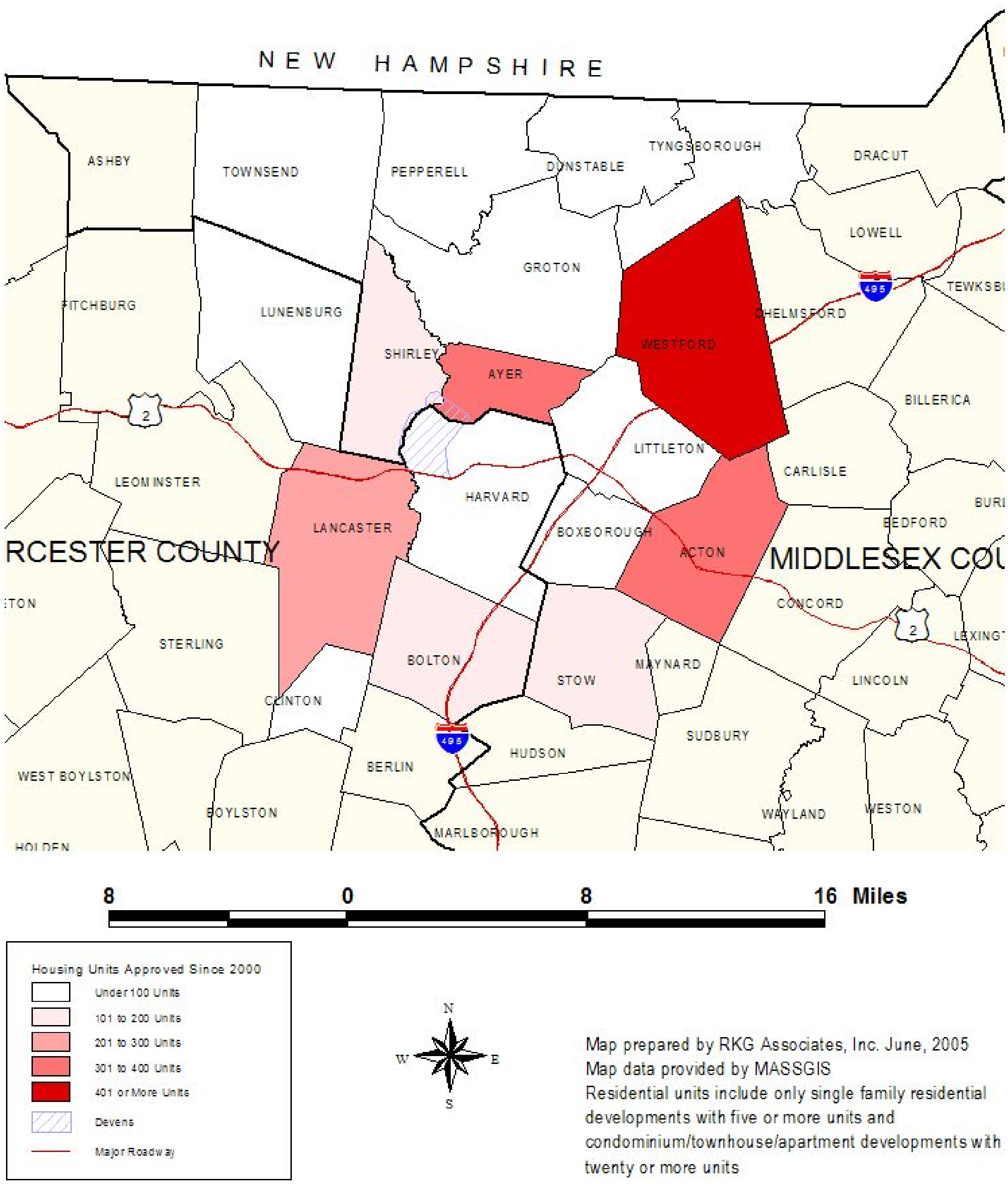
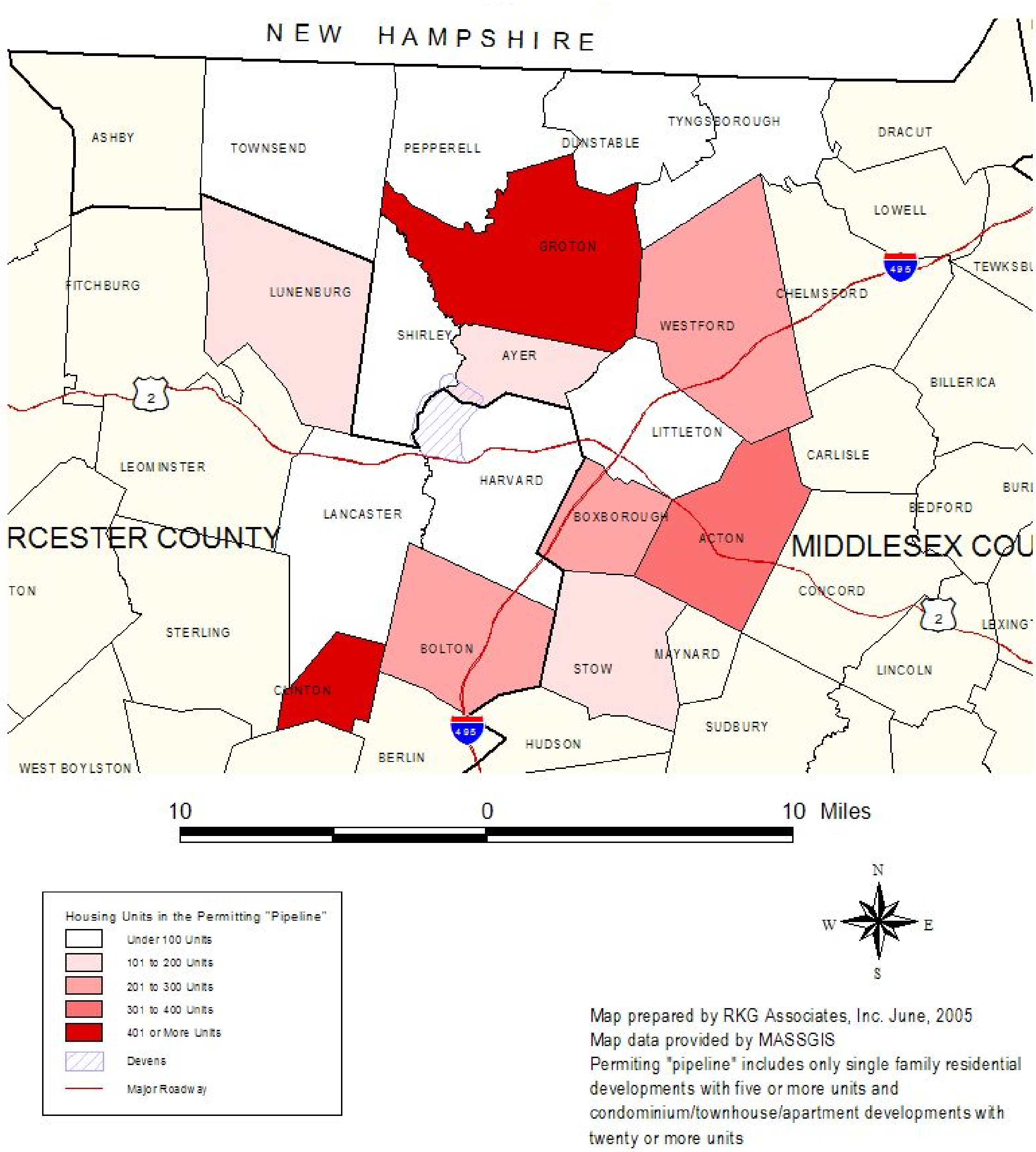


Figure 2.3: Residential Units within the Permitting "Pipeline"



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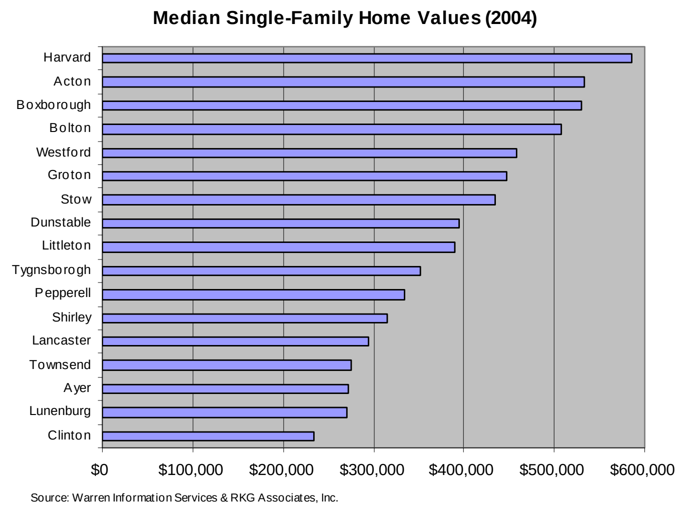
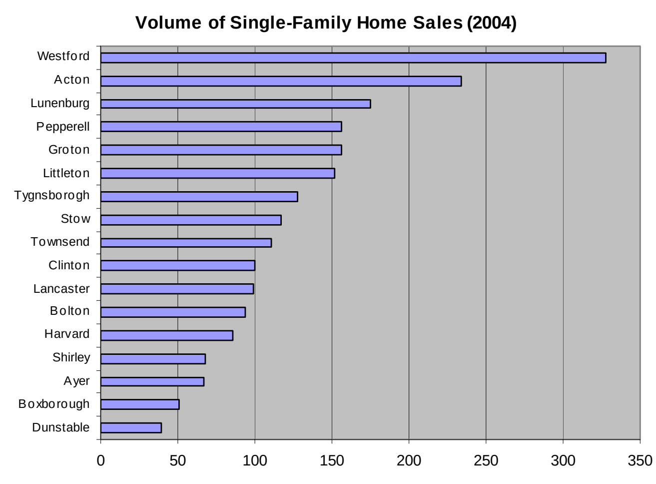
Single-Family Market

Figure 2.4



In 2004, as shown in Figure 2.4, the median value for a single-family home in the Devens region ranged between $234,500 in Clinton and $585,000 in Harvard. Ayer ($272,000) had the lowest median value of the Core Communities, which was about 13.6% lower than in Shirley ($314,950). Four communities including Harvard had median pricing for single-family homes in excess of $500,000, and three communities had median pricing in the $400,000 to $500,000 range. Five communities including Shirley had median pricing in the $300,000 to $400,000 range, and five communities including Ayer had median pricing in the $200,000 to $300,000 range. Figure 2.6, on the following page, shows the sales in the Core Communities by price range.

Figure 2.5



The 2004 sales volume of single-family homes in the Devens region ranged between 39 sales in Dunstable and 328 sales in Westford. Sales in the Core Communities ranged between 67 in Ayer or 68 sales in Shirley and 86 sales in Harvard. Westford was the only community to have sales in excess of 300 homes, and Acton was the only community to have sales between 200 and 300 in 2004. Sales of single-family homes totaled 221 sales in the Core Communities, which accounted for about 10% of single-family sales in the region in 2004. Figure 2.5 shows the volume of single-family homes sold in 2004.

Figure 2.6: Single Family Sales by Price

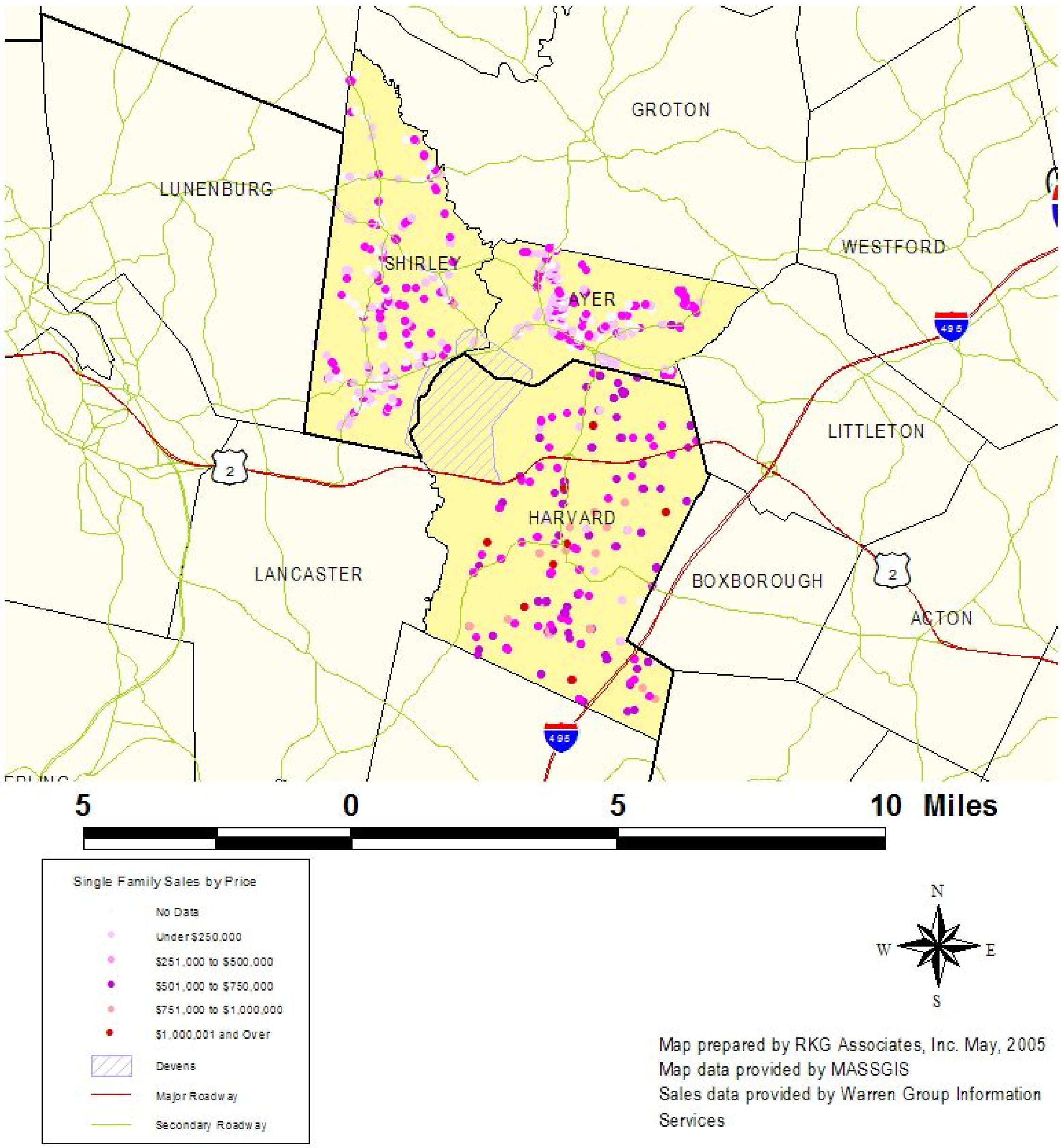
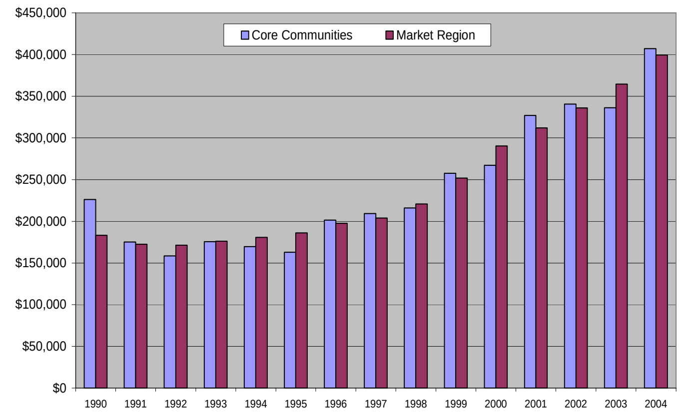


Figure 2.7

Median Single Family Unit Sale Price Comparison: 1990-2004

Core Communities and Devens Market Region



Source: Warren Goup Information Services & RKG Associates, Inc.

Aggregating median values for single-family homes in the Core Communities indicated a value of $407,000 in 2004, which was the highest price of any period since 1990. Similarly, the aggregated median values in the Devens region ($399,300) was highest in 2004. As illustrated in Figure 2.7, median pricing during the early 1990s was relatively stable and pricing started to increase each year after 1995/1996. Median values in the Core Communities have increased by 10% per year between 1995 and 2004, while median values in the region increased by 9% per year.

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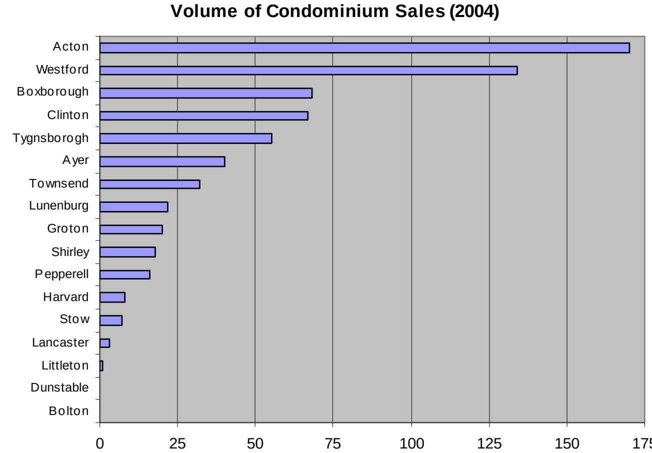
Condominium Market

In 2004, as shown in Figure 2.8, the median value for a condominium in the Devens region ranged between $77,450 in Townsend and $426,710 in Lancaster. Ayer ($203,450) had the lowest median value of the Core Communities, which was about 8.6% lower than in Shirley ($222,500). Three communities including Harvard ($359,950) had median pricing for condominiums in the $300,000 to $400,000 range, and five communities had median pricing in the $200,000 to $300,000 range, including Ayer and Shirley. Three communities had median pricing in the $100,000 to $200,000 range, and two communities had median condominium pricing under $100,000.

Figure 2.9

Volume of Condominium Sales (2004)



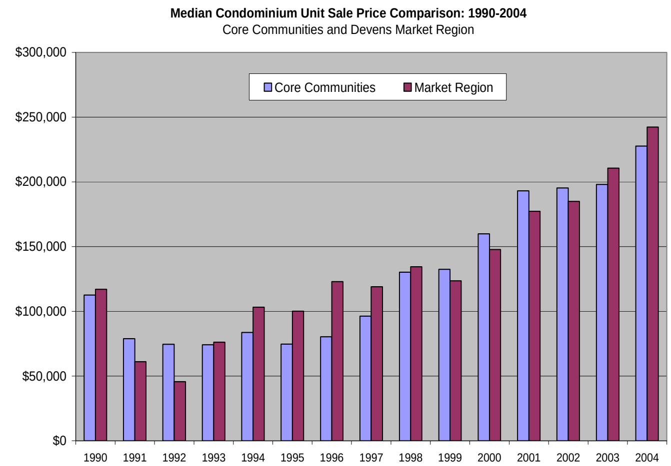
Source: Warren Information Services & RKG Associates, Inc.

The sales volume of condominium units ranged between 1 sale in Littleton and 170 sales in Acton (see Figure 2.9). Sales in the Core Communities ranged between 8 in Harvard, 18 sales in Shirley and 40 sales in Ayer. Acton and Westford were the only communities to have sales in excess of

100 condominiums, while no sales occurred in Bolton and Dunstable. Sales of condominiums totaled 661 sales in the Core Communities, which accounted for about 10% of condominium sales in the region in 2004.

Aggregating median values for condominiums in the Core Communities indicated a value of $227,620 in 2004, which was the highest price of any period since 1990. Similarly, the aggregated median values in the Devens region ($242,320) was highest in 2004. As shown in Figure 2.10, median pricing during the early 1990s was relatively stable and pricing started to increase each year after 1995/1996. Median values in the Core Communities have increased by 13% per year between 1995 and 2004, while median values in the region increased by 10% per year.

Figure 2.10



Source: Warren Goup Information Services & RKG Associates, Inc.

Table 2-5 shows the number of sales in the different price ranges that occurred in the Core Communities in 2004. About 54% of sales were homes valued at $300,000 or more.

Table 2-5
Home Sales (Single-Family & Condominium) in Core Communities by Price Range (2004)

Price Range	Sales	% of Total
Under $150,000	25	8%
$150,000 - $199,999	39	12%
$200,000 - $299,999	82	26%
$300,000 - $499,999	108	34%
$500,000 and up	62	20%
Total	316	100%

Source: Warren Information Services & RKG Associates, Inc.

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Rental Supply and Market Conditions

The rental market in the Core Communities and the region is relatively small in comparison to the ownership market and its share of households declined between 1990 and 2004, with much of this decline attributed to the closing of Devens. As shown in Table 2-6, the number of renter households in the Core Communities decreased from 3,817 in 1990 to 2,098 in 2000, reflecting a decline of nearly 1,720 households. Between 2000 and 2004, renter households remained relatively stable in the Core Communities, in comparison to an 8.5% increase in owner households. Total housing in the Core Communities also declined by 822 units between 1990 and 2000, with all the decline attributed to apartment type buildings of 5-units-or-more. Since 2000, only nominal increases occurred in this housing type in comparison to the other housing types.

Table 2-6
Devens Region - Housing Characteristics & Trends (1990-2004)

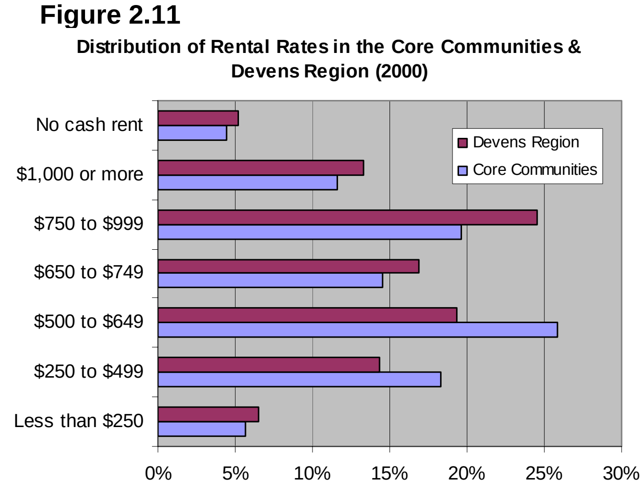
Core Communities		**1990**	**2000**	**2004**
Housing Units		8,179	7,537	7,797
	Single Unit [1]	5,370	5,079	5,304
	2 Family	740	930	942
	3 or 4 Family	535	589	607
	5 or more	1,534	939	944
Occupied Housing		7,714	6,858	7,265
	Owner	3,897	4,764	5,170
	Renter	3,817	2,098	2,095
Vacant Housing		465	679	532
	Rate	6%	10%	7%
Devens Region		**1990**	**2000**	**2004**
Housing Units		51,924	57,618	61,037
	Single Unit [1]	39,120	45,098	48,210
	2 Family	3,415	3,503	3,555
	3 or 4 Family	2,594	2,804	2,904
	5 or more	6,795	6,213	6,368
Occupied Housing		49,156	55,540	58,333
	Owner	35,609	43,787	46,333
	Renter	13,547	11,753	12,000
Vacant Housing		2,768	2,078	2,704
	Rate	6%	4%	5%

[1] Includes Mobile Homes & Other Housing
Source: US Census, Demographics Now and RKG Associates, Inc.

The impact of the closing of Fort Devens in the mid-1990s also affected the renter market in the region, as renters declined by 1,794 households. This finding suggests that the loss of renter households in the Core Communities accounted for 96% of the loss in the Devens region. Since 2000, owner households in the region increased by 2.1%, slower than the 5.8% increase in owner households in the Core Communities.

The rental rate structure in 2000 in the Core Communities was lower in many cases than that in the region. The Core Communities had a higher percent of units with rents below $650, than the region, with the region had higher percent of rental units with pricing above $650.

Figure 2.11



Source: US Census & RKG Associates, Inc.

The region also had a slightly higher percent of units with tenants paying "no cash rent". According to the U.S. Census, gross median rent in 2000 ranged from $596 in Shirley, to $646 in Ayer and $964 in Harvard. The aggregated median rent for the core communities was $652, which was lower than the $697 indicated from the US Census. Figure 2.11 shows the distribution of renal rates in the Core Communities and the region in 2000.

A review of apartment search engine websites indicated that rents at modern rental complexes currently range from a low of $715 to a high of $1,595 as shown in Table 2-7. Rents for one-bedroom units range from $900 to $1,030 and indicated average is $980 month. Rents for two-bedroom units range from $1,040 to $1,295 and the indicated average is nearly $1,170. Three bedroom rents range between $1,395 and $1,595. Interestingly, the rents at Old Town Village are at the low end of the range for one and two bedroom units and in the middle of the range for three bedroom units.

Table 2-7
Asking Rental Rates and Fair Market Rents (June 2005)

Complex	Town	Studio	1 bdrm	2 bdrm	3 bdrm
Harvard Hill Townhouses	Pepperell	--	--	$1,295	--
Spring Hill Commons	Acton	$715	$1,030	$1,263	$1,595
Iris Court	Acton	--	$1,095	$1,250	$1,395
Pinewood Estates	Pepperell	--	$995	$1,150	--
River Crossing	Tyngsborough	$750	$965	$1,120	--
Oxford Court	Clinton	--	$895	$1,050	--
Old Town Village	Ayer	--	$900	$1,040	$1,495
	Average	$733	$980	$1,167	$1,495
Fair Market Rents (FY-2006)		Studio	1 bdrm	2 bdrm	3 bdrm
Boston HMFA	Ayer/Shirley	$1,063	$1,128	$1,324	$1,584
Lowell HMFA	Region	$738	$883	$1,135	$1,355
E. Worcester HMFA	Harvard	$724	$809	$1,065	$1,273
Worcester HFMA	Region	$612	$704	$857	$1,025
Fitch-Leo HFMA	Region	$563	$646	$811	$993
	Average	$740	$834	$1,038	$1,246

Note: **HMFA** stands for HUD Metro Fair Market Rent Area
Source: huduser.org. apartmentguide.com; rentnet.com;apartments.com

Fair market rents are also exhibited for five HUD Metro Fair Market Areas (HMFA), which contains one if not more of the seventeen communities in the Devens region. Ayer and Shirley are in the Boston HMFA but Harvard is the Eastern Worcester County HMFA. In prior years, Harvard was part of the Boston MA-NH PMSA, like Ayer and Shirley.[4]

Referring to the previous table, fair market rents for one-bedroom units range from $646 in the Fitchburg-Leominster HMFA to $1,128 in the Boston HMFA. The indicated average of $834 is lower than the $980 indicated at a sample of local complexes. Similarly, the indicated average of fair market rent for two-bedroom units ($1,038) is lower than the average indicated by the sample ($1,167).

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[4] Fair Market Rent is set annually by geographies as a standard for Section 8 rents.

Chapter 40B Supply

According to a May 2005 inventory of subsidized housing prepared by the Massachusetts Department of Housing and Community Development (MA DHCD), there were 345 Chapter 40B units in the Core Communities, representing 4.6% of the year round housing supply in 2000. [5] As shown in Table 2-8, Ayer had the highest percentage of Chapter 40B units at 7.4%, and Harvard had the lowest at 2.5%. All three communities are below the 10% threshold. The Devens region had a Chapter 40B supply of 2,640 units or 4.3% of its housing supply[6].

Table 2-8
Chapter 40B Subsidized Housing Inventory (SHI): May, 2005
Devens Core Communities & Region

	2000 Census Year Round Units [1]	Total Development Units	Total SHI Units	Percent SHI Units	Households in Poverty (2000)
Ayer	3,141	242	234	7.4%	272
Harvard	2,156	136	54	2.5%	13
Shirley	2,140	57	57	2.7%	109
Core Communities	7,437	435	345	4.6%	394
Rest of Region	49,668	2,945	2,117	4.3%	2,081
Devens Region	57,105	3,380	2,462	4.3%	2,475

[1] Excludes seasonal housing units
Source: MA DHCD, US Census & RKG Associates, Inc,

The supply of Chapter 40B housing units in the Core Communities would have to increase by 450 units to reach the 10% goal established by the Commonwealth. Ayer would need 90 more subsidized units, while Harvard and Shirley would each need about 180 more subsidized units, in order for each community to reach the 10% mandate, assuming no increase in market supply.

[5] Chapter 40B is Massachusetts legislation that provides for the development of low-to-moderate income housing throughout the Commonwealth by setting a 10% standard of year-round housing for low-income households. If a community is below this 10% threshold, a public agency, non-profit organization or a limited dividend organization can file a comprehensive permit, which would allow limited suspension of local regulations that are inconsistent with the construction of low-income housing, provided 20% to 25% of the proposed units in the development have long-term affordability restrictions. Households with incomes below 50%-80% of the region's median income level can qualify for affordable housing programs.

[6] One measure of ascertaining a community's immediate need for low-income housing is to compare the amount of affordable housing units with the number of households at or below the poverty level. As shown in the previous table, the Devens region had 2,462 Chapter 40B units and 2,475 households in poverty, indicating a potential undersupply of only 13 subsidized units to meet the needs of impoverished households. In the Core Communities, the potential undersupply was nearly 50 units. Based on these statistics, the Core Communities have nearly met the needs of providing housing for their most impoverished households (assuming 40B units are occupied by these households in poverty).

Comparative Projects

A review of listing activity was conducted in the different communities of the region and brokers were contacted to ascertain different features and characteristics of selected projects to have a better understanding of the types of buyers that were drawn to these projects, as well as some of the unit and project features or amenities. This section summarizes characteristics at eleven ownership properties in the region. However, suitable new rental projects were not found since no major complex has been constructed within the last few years.

Single Family Subdivisions

The Orchard is a 110-lot subdivision in Shirley that will be built in 7 phases; the first phase contains 25 lots, and 22 have reservations. Unit pricing starts in the $425,000 to $450,000 range and up depending on style. Homes are 4 or 5 bedrooms with 2.5 bathrooms or more and range in size between 2,300 and 2,600 square feet (SF). The lots range in size between 0.5 and 0.75 acres and will be serviced by the Shirley sewer and water system (obtained from Devens). Buyers range from first time home buyers to move-ups and typically are in the 30 to 45 year range. Typically buyers come from Billerica, Chelmsford, Peabody, and other Massachusetts communities. The project consists of about 130 acres and 20 acres or so will be conservation land. There will be a homeowners association and covenants that are in the process of being finalized as the project just recently was approved. The availability of the MBTA commuter rail in Shirley is considered a key marketing aspect, although the project is approximately a 10 minute walk to the rail station. The homes will have garages, basements, fireplaces, central air conditioning, hardwood floors, granite counters, etc.

The Meadows is a 30+ lot subdivision also in Shirley, and phase one is currently underway. Lots are typically 0.7 to 0.9 acres and are serviced by the public water/sewer system. Homes are being marketed in the $450,000 to $500,000 range. The homes are 4 to 6 bedrooms ranging between 2,400 SF and 3,100 SF and have garages, fireplaces, basements, central AC. The project is located off Clark Road, less than a mile from the commuter rail station, and a few blocks from the community swimming pool.

Sandy Ponds Estate is a 24-home subdivision with home pricing starting in the low-to- mid $500,000 range. Lots range in size from less than one acre to about an acre and a half and have municipal water and sewer. Some lots have water views and/or frontage. Homes have 4 bedrooms and 2.5 bathrooms with an average size between 2,600 and 2,700 SF. Homes have family rooms, two car garages, central air conditioning, a fireplace, and good quality kitchen and bathroom finish.

Robbins Mill Estates is a new 90 home subdivision being developed by Pulte Homes on 233 acres in Acton, MA. The homes are "estate-sized" (3,450 to 4,000 SF) and pricing starts in the low-$800,000 range. The development will include 139 acres of conservation land, and recreational amenities such as a basketball court, playground and soccer field. According to one broker, 300 individuals have placed "refundable" deposits on the first 20 to 30 homes in the project.

Eagle Ridge is a 115-unit "age-restricted" project next to Sterling County Club in Lancaster. The development started about 3 or 4 years ago and 60 lots have sold. Initial pricing started at $299,900 and have increased to the low to mid $400,000s. The units are detached single-family homes which have been popular, according to the broker, since buyers weren't looking for attached condos but rather a small lot with a house. Lots are typically 0.5 acres with water and sewer, and homes are typically two-bedroom with two bathrooms in 2,100 SF plus.

Reportedly, buyers were coming from all parts of the state, some were local empty nesters, some came from the Cape, some moved back to be near family, some were second marriages, and so on. Currently there are seven designs ranging in size from 1,800 SF to 2,700 SF and pricing ranges from $420,000 to $550,000 although the "Kennedy" design has a list price of $599,900 on realtor.com.

White Hill Way, located off Route 2A close to Ayer, and near the SANVAL plant, had a recently built home marketed as being in Littleton's "newest neighborhood". Reportedly, properties have a deed disclosure regarding blasting at the plant between April and October. This is a 49-lot subdivision averaging about 0.9 acres (40,000 SF) per lot with private septic and town water, whose development started in 2000. Forty-two houses have sold with the last seven lots being recently purchased by two builders. New homes over 3,000 SF have a retail price of $679,900. A recently built home was listed for $639,000 and the broker reported the seller, who worked at Biogen in Boston, was moving to a newer house in Acton. The house had 2,636 SF with 4 bed and 2.5 baths. White Hill Way has no neighborhood association, which is reportedly typical in Littleton.

Condominiums

Chandler Place is a 16-unit townhouse project in Ayer, built in duplexes and triplexes near the center of town and within walking distance from the train station. Each unit had 3-levels consisting of 1,862 SF with 2 bedroom, 2 bathrooms, and a one-car garage. Marketing of the project started about one-year ago and 13 of the 14 market rate units had been sold. (The Town of Ayer were selling the two "affordable" units.) Pre-construction pricing started at $270,000 and gradually increased to $295,000 for the last two units. The units were of good quality complete with a fireplace and central air conditioning. Condo fees were reported at $85/month. Buyers were attracted from Hopkinton to Andover, primarily because pricing was under $300,000 and availability of the commuter rail. Buyers age also ranged between the young 30s to the 50s.

Fredonia Mill Place is a new 11-unit townhouse project under construction in Shirley. All units are 1,250 SF with two bedrooms, one and a half bathrooms and a one-car garage. Pricing ranges between $274,900 and $279,900. The first building has six units, while the second phase will have five units.

Pines of Acton is a 24-unit independent living project (age-restricted) recently built on a 12-acre site at the Inn at Robbins Brook Campus (180 units) in Acton. Eleven units are available that are all two-bedroom units, ranging in size from 800 SF to 1,400 SF. The smaller units have one and a half bathrooms while the large ones have two bathrooms. Pricing ranges from $299,900 to $369,900. Garages are also available at a higher price. The units are garden-style in three story colonial type buildings, with common areas, secure storage and on-site manager.

Blue Heron Pond in Lancaster is a 58-unit, age restricted townhouse project that is under construction. The project features two floor plans of two-bedroom units ranging in size between 1,458 SF to 1,758 SF. Pricing ranges from $335, 900 to $353,900. The project is situated on 46 acres, and the units are in duplex or triplex buildings. Each unit has a two and one-half bathrooms, formal dining room, eat-in kitchen, fireplace, one-car garage, etc. Reportedly, the buyers/lookers come from no specific geographic area, some are snowbirds, others have family nearby, some are coming from far distances. A model unit reportedly will be available in November 2005.

Woodlands in Clinton is a 493-unit project on 217 acres with a variety of styles ranging from one & two-bedroom suites in a mid-rise building to two to four bedroom units in attached townhouses, to some detached single family homes. Pricing ranges from $229,000 to $521,000 depending on style, size etc. Reportedly, seventy-five units sold in 2004, and 30 units have transferred in 2005. The area from which buyers are drawn includes the Metro West region of Boston to the northern and western portion of the Route 128 to Interstate 495 ring. Buyers of the first sixty units were evenly distributed between under 45; 45 to 55; and 55 and over, and only 2 families had children.

Summary of Housing Conditions

The following summarizes the housing market information for the Core Communities and Devens region.

- Approximately 86.5% of the new housing starts in the Core Communities were single-family homes, which was similar to the 91.0% in the Devens region. In comparison, 62.8% of the new units constructed in Middlesex County were single-family homes.

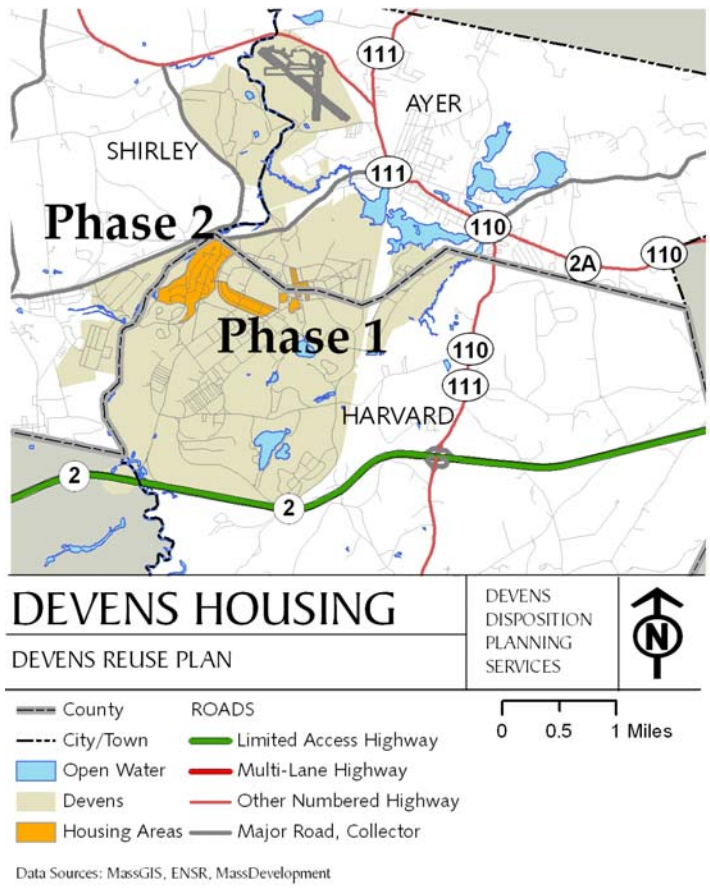
- According to municipal representatives, over 2,160 units have been approved and either developed or are being developed in the region at 55 major projects, including 542 units in the Core Communities. In addition to what was approved, the Devens region has over 2,760 units that are in the approval process (80% of which are potential ownership units).

- According to a May 2005 inventory of subsidized housing prepared by the Massachusetts Department of Housing and Community Development (MA DHCD), there were 345 Chapter 40B units in the Core Communities, representing 4.6% of the year round housing supply in 2000.

Status of Phase I Affordable Housing Units

The Devens Reuse Plan authorizes a maximum of 282 housing units. To date, 102 homes have been developed under a "Phase 1" program that involved renovating former military housing for civilian homeownership units. Known as Harvard Hills, Phase 1 consists of single-family and multi-family dwellings on Auman, Bates, and Walnut Streets and Elm Road. These streets are located on the Main Post in and adjacent to the Fort Devens National Register District, the core area that includes not only Rogers Field but also numerous contributing buildings and historically significant, related buildings along the roads around the training green.

Figure 2.12: Devens Reuse Plan – Phase Areas



MassDevelopment recently engaged in a master plan process for a larger "Phase 2" housing development proposed for Grant Road, generally west of Rogers Field. Although Phase 2 was originally expected to complete the Reuse Plan's residential component, i.e., 180 units, MassDevelopment has expressed interest in developing more housing in the Grant Road area.

According to the Reuse Plan, 25% of the units at Devens must be low- and moderate-income housing. The Reuse Plan does not define "low- and moderate-income housing," but when the host communities approved the Reuse Plan in 1994, most voters probably associated the term with Chapter 40B (G.L. c.40B, Sections 20-23), the state's comprehensive permit law. Under Chapter 40B, at least 10% of the homes in each city or town should be low- or moderate-income housing. The statute *also* is silent on the meaning of "low and moderate income," but by regulation, the state Housing Appeals Committee and most housing subsidy programs define "low income" as households with incomes at or below 50% of area median income (AMI) and "moderate income" as households with incomes between 51-80% AMI. As a result, "low- and moderate-income housing" means housing for individuals or families with incomes at or below 80% AMI, adjusted for household size. Given this commonly understood usage, it is not surprising that 25% of the Harvard Hills housing units are subject to income, occupancy and price restrictions which make them eligible for the Chapter 40B Subsidized Housing Inventory.

Since Phase 1 was carried out under the Devens Zoning Bylaw, it did not need a comprehensive permit. Like other developments that include affordable housing due to local requirements, Harvard Hills had to be approved by the state's Local Initiative Program (LIP) in order for the Phase 1 affordable units to qualify for the Chapter 40B Subsidized Housing Inventory. The Massachusetts Department of Housing and Community Development (DHCD) acts as the approval authority for LIP units per 760 CMR 45.00 et seq. In 2001, DHCD granted LIP status for the 25 affordable units at Harvard Hills.

The Devens Disposition Executive Board (DDEB) has requested a status report on the 25 low- and moderate-income housing units developed during Phase 1. This memorandum summarizes our research, findings and recommendations.

Local Initiative Program (LIP) Requirements

In order to qualify for the Chapter 40B Subsidized Housing Inventory, an affordable homeownership unit must be:

- In a development built under a comprehensive permit or approved by DHCD as a LIP unit;
- Affordable to and occupied by a low- or moderate-income household;
- Subject to a use restriction that preserves affordability upon resale, provides for resale monitoring to assure that future homebuyers are income-eligible, and grants a right of first refusal to the community or another public entity to purchase the unit if an income-eligible homebuyer cannot be found;
- Made available to eligible homebuyers through a fair and open process, such as a lottery; and
- Monitored to assure that the unit remains occupied by the homebuyers as their principal residence.

In comprehensive permit projects financed by quasi-public agencies such as MassHousing or MassDevelopment, developers assume all regulatory compliance responsibilities. However, LIP affordable housing differs somewhat because municipalities have a larger and longer-term role. Established by regulation in 1989, LIP enables cities and towns to produce low- and moderate-income housing that meets the intent of Chapter 40B without traditional subsidies or comprehensive permits. Since LIP developments do not involve participation by a conventional housing subsidy program, some of the oversight normally arranged between the funding agency and the developer falls to municipalities, which are required by regulation to report periodically to DHCD. In practice, however, LIP developers usually assist by providing funds for communities to meet their monitoring and reporting obligations.

Deed Riders

The continued affordability of a low- or moderate-income homeownership unit hinges on the affordable housing restriction: a *deed rider* that runs with the land, governs resale procedures and sets a methodology for calculating the unit's resale price as it changes hands over time. DHCD has developed a standard or "model" deed rider for LIP units, though it may be modified on a case-by-case basis with the agency's permission. Since it is a template, the LIP deed rider contains many blank spaces that must be completed by the developer before the unit is conveyed. Missing information can (and does) create problems during the resale process, so it is always in a municipality's interest to review the deed rider prior to the closing.

When a moderate-income homebuyer purchases an affordable unit in a new housing development, the purchase price must reflect what the homebuyer can afford. Typically, this means the total monthly payment for principal, interest, condominium fee, taxes, and house insurance may not exceed 30% of the homebuyer's monthly gross income. The difference between the housing unit's market value and the price the homebuyer can afford converts to a *discount rate*, i.e., the affordable purchase price as a percentage of market value. The discount rate, which is set by DHCD, largely determines the maximum resale price, such as in the following example:[7]

	Initial Purchase Conditions	Resale Conditions
Market Value	$295,000	$336,300
Affordable Price	$98,700	$112,518
Discount Rate	33.5%	33.5%

The initial deed rider is executed by the developer and homebuyer; and upon resale, by the seller and the new purchaser. The deed rider effectively binds moderate-income purchasers to abide by certain rules when they sell their home in the future. Before a Chapter 40B homeownership unit can be resold, the owners must notify the town and DHCD of their intent to sell. DHCD reviews an appraisal of the property and other information, and certifies a resale discount rate. From the date of the owner's initial notification, the city or town has 90 days to locate an eligible purchaser or exercise its right of first refusal. In turn, DHCD may act between 90-105 days. If the owners fail to abide by the notification procedures in the deed rider, presumably their mistake will be discovered during a title search by the attorney

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[7] The state's model deed rider also allows the seller to recover investments in major capital improvements. For this and other reasons, the discount rate does not always remain constant from sale to sale.

representing the next buyer or mortgage lender. However, if the documents are not recorded properly at the Registry of Deeds or if the recorded documents omit important information, the rights of the municipality and state can be significantly compromised.

Regulatory Agreement

Since Devens-Phase 1 involved a mix of market-rate and affordable units in a single project, the development was subject to another type of restriction known as a *Regulatory Agreement*. Executed by the city or town, DHCD and the developer, the LIP Regulatory Agreement obligates the developer to sell the units under an affirmative (fair housing) marketing plan and assure that each affordable unit is protected by the appropriate deed rider. In addition, the Regulatory Agreement limits what the municipality may do with any "windfall profit" from the sale of an affordable housing unit. If a qualified, income-eligible homebuyer cannot be found to purchase a resale unit and neither the town nor DHCD exercises its right of first refusal, the seller may dispose of the unit at market value. However, the seller is prohibited from retaining all of the profit from a market-rate transaction. Instead, the "windfall" or difference between the affordable price and the proceeds from a market-rate sale must be paid to the municipality. Using the above example, the windfall profit would be $223,782. The Regulatory Agreement authorizes local officials to deposit the windfall profit in an escrow account and expend the funds for future affordable housing units, subject to DHCD approval. Finally, the LIP Regulatory Agreement requires the municipality to monitor affordable homeownership units and certify annually that they remain owner-occupied. (Usually the developer assists by providing funds for an outside agent to handle a community's monitoring obligations.)

In April 2001, Mass Devens Limited Partnership (Phase 1 developer) entered into Regulatory Agreements with DHCD and the Towns of Harvard and Ayer respectively. The Regulatory Agreements paved the way for Harvard to increase its Chapter 40B Subsidized Housing Inventory by 13 affordable units and Ayer, by 12 units.

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Review of Harvard Hills Deed Riders

All 25 LIP deed riders were located through the Registry of Deeds on-line databases for Worcester County and Middlesex County. Approximately half of the documents reviewed can be considered a complete record for the units to which they apply: a properly recorded deed rider with no missing information. Where the deed riders are incomplete, the omission usually appears in Section 1(d), which requires the grantor (developer) to identify the Registry of Deeds Book and Page reference for the Regulatory Agreement. In addition, the following was found:

- 15C Elm Road (Harvard) – the Discount Rate is blank. This is the most significant issue identified during the review. Since the legal record for the unit does not identify the initial purchaser's discount rate, there will most likely be a disagreement about the seller's obligations during resale. Similar problems have occurred in other communities. It is understood that at the request of one town where several recorded deed riders also omitted the discount rates, DHCD has intervened by providing buy-down assistance to preserve a resale unit's affordability. This action enabled DHCD to secure corrections to the deed rider and thereby prevent a recurrence of the problem.
- 24 Auman Street (Ayer) – "the Municipality" has a right of first refusal, but the Town of Ayer is not designated as the Municipality.
- 27B Elm Road (Harvard) – A deed was not found for this property. A mortgage was filed on August 18, 2003, and a Declaration of Homestead was filed August 19, 2003.

As in most of the state's recently completed LIP developments, the affordability restrictions at Harvard Hills expire 50 years from the date of conveyance to the first moderate-income homebuyers. Generally, this means the Harvard Hills LIP units will begin to lose their status as Chapter 40B units in 2052, at which time DHCD will remove them from the Subsidized Housing Inventory unless the restrictions are extended. A unit-by-unit summary of documents reviewed for the Phase 1 LIP units identified by MassDevelopment is provided in this task.[8]

Recommendations

Ayer Subsidized Housing Inventory

The Town of Harvard's Subsidized Housing Inventory clearly reflects the provisions of the Regulatory Agreement between the Town, the developer and DHCD because it includes 13 affordable units at Harvard Hills. However, it appears that the Town of Ayer's Subsidized Housing Inventory includes *no* Chapter 40B units at Harvard Hills.[9] Prior to the release of this memorandum, it is recommended that Ayer officials contact DHCD and request an amendment to the Subsidized Housing Inventory. The state encourages communities to review their Subsidized Housing Inventories from time to time in order to assure that eligible units have not been omitted. To facilitate this effort, DHCD usually transmits a detailed list of Chapter 40B units once a year to the chief elected official of each city and town. Possibly Ayer has not received any copies to review.

[8] Transmitted by email, Victor Normand for MassDevelopment to Judi Barrett, Community Opportunities Group, Inc., 10 June 2005.
[9] Subsidized Housing Inventory for Harvard and Ayer transmitted by email, Elizabeth Mallow for DHCD to Judi Barrett, Community Opportunities Group, Inc., 22 June 2005.

“Last Resort” Fund to Preserve Affordability

Communities often assume that once an affordable unit is placed on the Subsidized Housing Inventory, it will remain there forever – or at least until the affordability restriction expires. Unfortunately, this is not always the case and homeownership units are particularly vulnerable to premature loss of affordability. First, the discount rate does not guarantee that a unit will remain affordable to moderate-income homebuyers in the future. When interest rates are low, homebuyers have more purchasing power. If moderate-income homeowners with a low-interest mortgage decide to sell when interest rates are high, income-eligible households may not be able to buy the unit because the higher rates have effectively reduced what they can afford. The LIP model deed rider includes a provision for reducing the resale price to an amount affordable for an income-eligible homebuyer, but it cannot be less than the seller’s original purchase price, adjusted upward by the cost of capital improvements made by the seller plus marketing expenses. It is not difficult to foresee the impact of a change in economic conditions on a LIP unit owner’s equity – or on the probability of finding a qualified, income-eligible purchaser at the point of resale.

Second, an affordable housing restriction does not prevent a mortgage lender from taking foreclosure action. If a LIP unit owner falls seriously behind on mortgage payments and loses his home, the lender’s interests supersede the resale and right-of-first-refusal provisions of the deed rider. Third, errors and omissions in the deed riders can make it very difficult to enforce the resale price and windfall profit requirements for Chapter 40B homeownership units. In an effort to hold communities harmless from these kinds of mistakes, DHCD has generally taken the position that when affordability is “lost” due to circumstances beyond local control, the affordable-turned-market unit will remain on the Subsidized Housing Inventory. Although the community’s official percentage of Chapter 40B units may not change, the actual inventory of affordable housing *does* change.

For these and other reasons, it makes sense for any community with Chapter 40B homeownership units to establish a reserve fund that can be tapped to acquire at-risk units by exercising the right of first refusal in the deed rider. Harvard and Ayer have adopted the Community Preservation Act (CPA) and may have other resources available, such as developer contributions to an affordable housing trust fund or special revenue account. If they have not already done so, the towns should consider setting aside funds to rescue affordable units from conversion to market-rate housing.

It is important to point out that MassDevelopment has *no* authority or responsibility for enforcing the affordable housing restrictions at Harvard Hills. By claiming the LIP units for their respective Subsidized Housing Inventories, Harvard and Ayer also assumed legal responsibility for the deed riders and Regulatory Agreements. This will continue as long as the LIP units count toward each town’s 10% statutory minimum.

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Devens as a New Town

Future Status of Harvard Hills LIP Units

If Devens becomes a separate town in the future, DHCD will have to determine whether the 25 Harvard Hills LIP units should remain on the Subsidized Housing Inventories of Harvard and Ayer or be transferred to a new Subsidized Housing Inventory for Devens. (This will also be true for any Phase II units that qualify for the Subsidized Housing Inventory.) It appears that a jurisdictional transfer may not happen automatically: the Regulatory Agreements constitute a binding arrangement between Harvard, Ayer and DHCD, the Deed Riders grant a right of first refusal to the towns in which the units are physically located today, and the documents are recorded in the Registry of Deeds of two counties. Although the model Deed Rider explicitly refers to a municipality or its successors, the Regulatory Agreement does not.

If Devens incorporated as a new town, DHCD would likely recommend a short-term transition plan that protects the host communities from a sudden, significant loss of units on the Subsidized Housing Inventory and simultaneously provides Devens with interim status under Chapter 40B. Such a plan would most likely require approval from the General Court. Another option is a regional agreement in which Devens "contributes" the Harvard Hills LIP units toward the 10% statutory minimum in Harvard and Ayer, in exchange for an equivalent benefit or mitigation payments (such as intergovernmental revenue transfers) from the two towns. In general, it is unlikely that these units would remain on the Harvard and Ayer Subsidized Housing Inventories indefinitely under a "new town" scenario without some form of tri-town agreement, regardless of whether the units were developed through a LIP process agreed to by Harvard, Ayer and MassDevelopment.

Harvard Hills LIP Units

Unit Address & Elements of LIP Deed Rider	Content of Recorded Deed Rider
11 B Walnut Street	Worcester County
Discount Rate:	35%
Expiration Date:	January 16, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	Book and Page for the Regulatory Agreement
11 C Walnut Street	Worcester County
Discount Rate:	35.3%
Expiration Date:	February 26, 2052
Right of First Refusal:	Municipality
	DHCD

Unit Address & Elements of LIP Deed Rider	Content of Recorded Deed Rider
Municipality:	Town of Harvard
Blanks:	None
24 Auman Street	Middlesex County
Discount Rate:	39.1%
Expiration Date:	January 9, 2052
Right of First Refusal:	Municipality
	DHCD
Blanks:	The Town of Ayer is not specifically listed as the Municipality for purposes of the right of first refusal. The deed rider merely refers to the "the Municipality."
	Book and Page for Regulatory Agreement
28 Auman Street	Middlesex County
Discount Rate:	37.9%
Expiration Date:	January 24, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
5 C Walnut Street	Worcester County
Discount Rate:	37.2%
Expiration Date:	March 27, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
32 Auman Street	Middlesex County
Discount Rate:	39.1%
Expiration Date:	March 27, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
28 Walnut Street	Worcester County
Discount Rate:	43%
Expiration Date:	April 30, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
25 Auman Street	Middlesex County
Discount Rate:	39.6%
Expiration Date:	June 11, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	None
32 Walnut Street	Worcester County
Discount Rate:	39.3%
Expiration Date:	September 12, 2052

Unit Address & Elements of LIP Deed Rider	Content of Recorded Deed Rider
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
21 C Elm Road	Worcester County
Discount Rate:	39.2%
Expiration Date:	December 18, 2052
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
15 C Elm Road	Worcester County
Discount Rate:	None recorded
Expiration Date:	February 12, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	Discount Rate
34 Walnut Street	Worcester County
Discount Rate:	39.9%
Expiration Date:	January 31, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
38 Walnut Street	Worcester County
Discount Rate:	40%
Expiration Date:	March 18, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
13 Auman Street	Middlesex County
Discount Rate:	37.8%
Expiration Date:	April 10, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	None
12 Auman Street	Middlesex County
Discount Rate:	37.4%
Expiration Date:	April 15, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	None
27B Elm Road	Worcester County
	Mortgage filed August 18, 2003
	Homestead filed August 19, 2003
	There is no deed filed for this property.

Unit Address & Elements of LIP Deed Rider	Content of Recorded Deed Rider
18 B Bates Street	Middlesex County
Discount Rate:	39.5%
Expiration Date:	October 28, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
18 C Bates Street	Middlesex County
Discount Rate:	37.8%
Expiration Date:	October 28, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
19 Auman Street	Middlesex County
Discount Rate:	37.2%
Expiration Date:	November 12, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
27 C Elm Road	Worcester County
Discount Rate:	36.5%
Expiration Date:	December 17, 2053
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
19 B Bates Street	Middlesex County
Discount Rate:	36.6%
Expiration Date:	April 27, 2054
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
19 C Bates Street	Middlesex County
Deed:	None
Other:	Certificate of Municipal Lien filed June 16, 2004
	Fourth Quarter Tax Payment $180.74 due April 28, 2004
	(Both filed by Mass Development)
19 D Bates Street	Middlesex County
Discount Rate:	30.9%
Expiration Date:	April 27, 2054

Unit Address & Elements of LIP Deed Rider	Content of Recorded Deed Rider
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Ayer
Blanks:	Book and Page for Regulatory Agreement
	Book and Page for 1st Amendment to the Regulatory Agreement
Other:	Certificate of Municipal Lien filed May 14, 2004
	Fourth Quarter Tax Payment $180.74 due April 28, 2004
	(Filed by Town of Ayer & MassDevelopment)
31 B Elm Road	Worcester County
Discount Rate:	38.4%
Expiration Date:	February 19, 2054
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None
31 C Elm Road	Worcester County
Discount Rate:	40.3%
Expiration Date:	February 18, 2054
Right of First Refusal:	Municipality
	DHCD
Municipality:	Town of Harvard
Blanks:	None

Status of Transitional Housing at Devens

Title V of the McKinney-Vento Homeless Assistance Act of 1987 made assistance to homeless populations a top priority for the reuse of military bases closed by Base Realignment and Closure Commission (BRAC), beginning in 1988. In 1994, however, McKinney-Vento was superseded by the Base Closure Community Redevelopment and Homeless Assistance Act (P.L. 103-421), which established different procedures for identifying and addressing the needs of homeless individuals and families. Known by its short title, "the Redevelopment Act," P.L. 103-421 attempted to balance potentially competing interests – economic development on one hand, and homeless assistance on the other hand – by giving Local Redevelopment Authorities (LRAs) more control over outreach, coordination, negotiations with homelessness service providers, and planning.

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The Redevelopment Act

The Redevelopment Act automatically applied to all base closures recommended by BRAC-95 and approved by the President. For military bases closed under earlier BRAC proceedings (1988, 1991, 1993), including Fort Devens, LRAs could choose to be covered by the Redevelopment Act or the McKinney Act. MassDevelopment (formerly Massachusetts Government Land Bank) was among 40 LRAs nationwide that opted for the Redevelopment Act. Since the reuse planning process for Fort Devens was substantially complete by the time the Redevelopment Act went into effect, one homeless services provider – Sylvia's Haven – had already been approved for a surplus property disposition under the McKinney Act. In fact, the organization's approval status is referenced in the Fort Devens Disposal and Reuse Final Environmental Impact Statement (FEIS, 1995).

The status of other homeless assistance organizations is less clear, however. According to the Devens Reuse Plan, at least five groups had submitted McKinney Act requests for surplus property at Fort Devens when Congress passed the Redevelopment Act in October 1994. Since the Devens Reuse Plan was printed only one month later, just prior to Super Town Meeting, it must have been difficult for the Massachusetts Government Land Bank or the host communities to understand exactly how the Redevelopment Act changed their responsibilities to homeless service providers.[10] From a policy perspective, McKinney-Vento and the Redevelopment Act are not at all alike. They represent the interests of different administrations, but they also serve as a barometer of changes that occurred in the nation's economy between 1987 and 1994. In the same period that BRAC-88 and BRAC-91 base closing decisions were made, unemployment rose nationwide from 5.5% in 1988 to 7.2% in 1992. The Redevelopment Act came at the heels of a recession, and the communities affected by base closure worried about the prospects of economic recovery. Short of abandoning its commitment to address homelessness, the federal government sought compromise.

Today, it is difficult to trace the outcome of McKinney Act applications for Fort Devens because the records retention period expired a few years ago. In addition to Sylvia's Haven, the only other organization known to have applied under the McKinney Act is Massachusetts Veterans, Inc. (formerly Central Massachusetts Shelter for Homeless Veterans, Inc.). Unlike Sylvia's Haven, Massachusetts Veterans had not received final approval from the U.S. Department of Health and Human Services prior to the effective date of the Redevelopment Act and as a result, its request was no longer subject to McKinney-Vento. These two service providers appear to be covered by somewhat different regulations, not only because of a mid-decade change in federal law but also because they have received different capital and operating subsidies.

Redevelopment Plan and Homeless Assistance Submission

The Redevelopment Act requires each Local Redevelopment Authority to conduct a comprehensive outreach, negotiation and planning process to assist homeless service

[10] Moreover, LRAs opting for coverage under the Redevelopment Act had to notify the Department of Defense of their decision by December 24, 1994.

providers. Ultimately, the LRA must deliver a Redevelopment Plan and a Homeless Assistance Submission to the U.S. Department of Housing and Urban Development (HUD) for review. By law, these plans must be developed through a public process that identifies regional needs for homeless facilities and services and prioritizes those which may be accommodated at a closed military base. Although a copy of the HUD Redevelopment Plan or the Homeless Assistance Submission for Fort Devens has not able to be obtained, the presence of Sylvia's Haven and Massachusetts Veterans at Devens today suggests that both organizations are identified as priority service providers.

To obtain HUD's approval of the Redevelopment Plan and Homeless Assistance Submission, MassDevelopment would have been required to carry out the following actions:

- Conduct outreach to state, local and non-profit homeless service organizations;
- Receive and process notices of interest in property available at Fort Devens;
- Negotiate with homeless service providers and make a good-faith effort to accommodate them;
- Prepare agreements with homeless service agencies for use of property on or off the closed military base;
- Prepare an analysis of homelessness needs and description of how the Redevelopment Plan addresses these needs;
- Release the Redevelopment Plan for public comment; and
- Submit the Redevelopment Plan to HUD for review.

Although the Redevelopment Act places responsibility on the LRA to coordinate with homeless service providers, it does not require the LRA to approve all applications from providers seeking to convert surplus property to homeless facilities. Instead, it permits the LRA to justify the overall content of a Redevelopment Plan as a balance between "the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development." The law further requires that when property is no longer used for homeless services, it must revert to the LRA for other purposes consistent with the Redevelopment Plan. The policy shift embedded in the Redevelopment Act means the LRA's community-based interests take precedence over the national interest in reducing homelessness – *if* HUD concurs that reasonable efforts were made to address homeless needs along with all other needs identified in the Redevelopment Plan. Still, the law also granted a preferred position to homeless assistance providers with prior approval under Title V of McKinney-Vento. As explained in HUD's *Guidebook on Military Base Reuse and Homeless Assistance* (1996), organizations such as Sylvia's Haven were protected by a "making whole" rule that obligated LRAs to provide one or more of the following forms of assistance:

- The property sought by the homeless assistance organization.

- Substantially equivalent property on or off the installation. *Substantially equivalent property* means property that is functionally suitable for the approved Title V application.
- Sufficient funding to acquire equivalent property.
- Services and activities that meet the needs identified in the [approved Title V] application.

In contrast, organizations with Title V applications pending when Congress passed the Redevelopment Act were entitled to priority treatment, but they were not guaranteed access to surplus property. The limited documentation available for our review indicates that Massachusetts Veterans, Inc., may have fallen into this category.

Homeless Assistance at Devens

Issues

Sylvia's Haven and Massachusetts Veterans, Inc., occupy property at Devens as tenants of MassDevelopment. As required in subsection (7)(F) of the Redevelopment Act, MassDevelopment prepared and signed HUD-approved leases with these organizations so they could reuse former military housing as transitional housing. The lease agreements do not convey long-term occupancy rights to either tenant. The term of each lease is five years, with a renewal clause. Copies of any renewals or extensions signed by the parties has not been able to be obtained nor reviewed.

An amendment to the Massachusetts Veterans, Inc. lease revises the term to 15 years, commencing at occupancy of the property. Although the organization's occupancy date is not specified in the documents reviewed, it is believed that occupancy occurred in 2001-2002 after MassDevelopment received a grant from DHCD's Housing Development Support Program (HDSP) to assist Massachusetts Veterans, Inc. The purpose of the grant was to complete unit renovations in the Phase I housing development for transitional housing use. Ten of the units are Harvard Hills condominiums and four are single-family dwellings that are part of the Harvard Hills Homeowners Association. Due to DHCD requirements for housing assisted with HDSP and other HUD Community Development Block Grant (CDBG) funds, the lease must protect the units as housing for low- and moderate-income people for at least 15 years.

Since the units leased by Massachusetts Veterans, Inc., are subject to an Affordable Housing Restriction held by DHCD and recorded at the Middlesex County Registry of Deeds, they may qualify for listing on the Chapter 40B Subsidized Housing Inventory. Their eligibility is unclear because transitional housing is not permanent housing. However, DHCD's requirement that MassDevelopment convey an Affordable Housing Restriction suggests that the units have been treated as permanent housing for regulatory purposes. It is recommended that the Town of Ayer request a Subsidized Housing Inventory determination from DHCD.

A review of the original Sylvia's Haven lease dated April 30, 1996 supplied by MassDevelopment was conducted. Due to current litigation between Sylvia's Haven and MassDevelopment, further review of any other information concerning this organization's status at Devens has not been performed. In addition, documentation from HUD and DHCD has not been able to be obtained.

Future Status of Transitional Housing Units

For the duration of MassDevelopment's leases with Sylvia's Haven and Massachusetts Veterans, Inc., the providers have the right to use and occupy the property to which they were assigned as long as they comply with their lease obligations. A standard "successors and assigns" clause appears in both leases and presumably it protects the tenants in the event that the property changes ownership. In practice, it would be very difficult for MassDevelopment to sell the properties because they are encumbered by a Notice of Lease recorded at the Registry of Deeds and the tenants pay a substantially below-market rent.

Since MassDevelopment agreed to convey an Affordable Housing Restriction to DHCD as a condition of the HDSP grant, the units leased by Massachusetts Veterans, Inc., appear to be secure until 2017. Even if MassDevelopment ceases to function as a Local Redevelopment Authority for purposes of the Redevelopment Act, the agency has entered into a binding agreement with DHCD to provide affordable housing units at Harvard Hills for a minimum of 15 years. Unfortunately, the litigation involving Sylvia's Haven prevented us from completing a review of that organization's status because essential documentation was unavailable for our review. The following information should be examined:

- The HUD-approved Redevelopment Plan and Homeless Assistance Submission
- Lease renewals, if any, for Sylvia's Haven
- Documentation of initial occupancy dates