

C O M M O N W E A L T H O F M A S S A C H U S E T T S

H O U S I N G A P P E A L S C O M M I T T E E

STANDING ORDER NO. 2026-01

PRE-FILED TESTIMONY

This Standing Order supersedes Standing Order 04-02, adopted April 14, 2004.

This Standing Order applies to appeals filed with the Committee on or after October 1, 2026.

Effective October 1, 2026, it is hereby ORDERED that:

Pre-filed testimony, in accordance with 760 CMR 56.06(7)(e)(5), may be required by the presiding officer in appropriate cases. Parties shall appear at the Pre-Hearing Conference under 760 CMR 56.06(7)(d)(2) prepared to discuss a schedule for filing pre-filed testimony, generally based on the following guidelines:

Applicant's direct case: within four weeks after the Pre-Hearing Conference

Board's direct case: within eight weeks after the Pre-Hearing Conference

Applicant's rebuttal: within ten weeks after the Pre-Hearing Conference

These guidelines are advisory. The presiding officer may adjust the schedule in a particular case for good cause.

The allocation of and shifting burdens of proof under the Comprehensive Permit Law are set forth in 760 CMR 56.07(2). Those burdens do not prevent the parties from presenting evidence comprehensively, rather than piecemeal, through pre-filed testimony to streamline the hearing process.

In an appeal from a denial, although § 56.07(2)(b) indicates that the applicant may rest its direct case after establishing a prima facie case, the applicant ordinarily should also present evidence addressing the local concerns described in that provision. In an appeal of an approval with conditions, although § 56.07(2)(c) indicates that the applicant may rest its direct case after proving that the proposal, as conditioned, is uneconomic, the applicant likewise should address any local concerns identified by the board in the Pre-Hearing Order. Similarly, although § 56.07(2)(c) indicates that mitigation evidence may be presented in rebuttal, the applicant should, when practicable, address mitigation as part of its direct case.

Adopted October 1, 2026

Effective October 1, 2026

HOUSING APPEALS COMMITTEE

Lisa V. Whelan

Lisa V. Whelan, Chair